

THE DEPARTMENT OF CONSERVATION

THE MAINE FOREST SERVICE

Public Hearing

MFS Rule -- Chapter 23
Timber Harvesting Standards
to Substantially Eliminate
Liquidation Harvesting

Held March 23, 2004

Farmington, Maine

Don Thompson & Associates

Court Reporters

1 (Whereupon, the hearing commenced at 6:02 p.m. on
2 March 23, 2004.)

3 * * * * *

4 MR. MCGOWAN: Good evening. We might as well get
5 under way here. Some of you have come from some distance.
6 You don't want to be out any later than you have to be.

7 I'm Alec Giffen, director of the Maine Forest
8 Service. With me tonight is Commissioner Pat McGowan, who,
9 this is Pat's alma mater, so I'm sure he feels right at home
10 here; and Don Mansius, who is director of policy and
11 management for the Maine Forest Service.

12 We're here tonight to take testimony on the proposed
13 rules to substantially eliminate liquidation harvesting.

14 I'm going to ask Don to summarize those rules and
15 what's been done in terms of complementary solutions, and also
16 I will talk a bit about the field studies that have been done
17 to back this effort up.

18 Just an overview of how we got to this point. As
19 I'm sure you're aware, liquidation harvesting has been an
20 issue for some time now. There have been articles in the
21 press, and there have been a lot of discussions with the
22 Legislature over this issue.

23 Maine Forest Service has done field studies which
24 have led us to conclude that in the past the practice of buy,
25 cut, and sell has affected something on the order of 30- or

1 35,000 acres of land in Maine each year. We'll talk a bit
2 more about the most recent field study in a few minutes.

3 This all culminated last year when the Maine
4 Legislature passed a bill and the Governor signed it, which
5 essentially directed us to do two things: First it directed
6 us to develop rules to substantially eliminate liquidation
7 harvesting, and that's what the purpose of this hearing is
8 tonight is to get your testimony on a draft of those rules.

9 Secondly, the legislation directed us to determine
10 what complementary solutions might also help eliminate the
11 practice. In other words, in the legislation itself, the
12 Legislature recognized that merely having rules was not
13 necessarily going to solve the entire problem, and they wanted
14 a look at other kinds of things that might be done in addition
15 to rules that would help, and indeed we've done both of those
16 things.

17 We have had an extensive stakeholder process for
18 conducting both of those efforts for developing the draft
19 rules and for developing ideas on complementary solutions.

20 I see a number of folks here in the audience that
21 have participated one way or another in those stakeholder
22 groups. Pat Strout here from the Forest Products Council has
23 been involved to some extent, Cathy Johnson, Deanna Circo --
24 who am I missing? Am I missing anybody who's participated?

25 Anyway, we had a wide variety -- Jim Roberts, oh,

1 Jim, sorry, I missed you.

2 We've had a wide variety of folks representing all
3 the different interests, participating in those conversations
4 about how do we do the best job of putting together a set of
5 targeted rules which will in fact substantially eliminate
6 liquidation harvesting -- that's our charge -- at the same
7 time not have far-reaching, unintended consequences and how do
8 we put together a set of complementary solutions that will
9 really encourage good long-term forest management, which we
10 see as being the antidote to liquidation harvesting.

11 So we're tonight to get testimony on the rules.
12 Tomorrow we'll be in Ellsworth; Thursday we'll be in Gorham.
13 I know Charlene will be following us around and coming to all
14 of the hearings, since she told me so a few minutes ago.

15 Any of you are certainly invited to come to more
16 than one hearing if you're masochistic.

17 After the hearing, there will be a public comment
18 period that will run until -- is it April 5th, Don?

19 MR. MANSIUS: Correct.

20 MR. GIFFEN: April 5th. You can submit comments in
21 writing. They can also be submitted in e-mail, and materials
22 on the table say where to submit e-mail comments, I believe.
23 Don will be covering that again.

24 We will then analyze all the comments that we
25 receive at these hearings and comments that we receive in

1 writing or e-mail. We've already gotten a number of comments
2 in letters or in e-mails.

3 We will then make a recommendation to the
4 Commissioner as to a set of rules that we suggest that he
5 "provisionally adopt." If he chooses to do so, if he chooses
6 to provisionally adopt them, they then go back to the
7 Legislature which will then consider whether or not to adopt
8 them after this process.

9 Don Mansius -- we've already had -- let me just add
10 to that -- we've already had a number of discussions with the
11 Agriculture Conservation and Forestry Committee to help the
12 Legislature on these topics, and we've been keeping them fully
13 informed on what's going on.

14 In just a moment here Don is going to summarize the
15 content of the rules and the complementary solutions report.
16 Let me just say that the rules are highly targeted in our view
17 to try to substantially eliminate liquidation harvesting
18 without having a lot of unintended consequences.

19 I suspect that we will hear that there are those
20 among you who disagree with that analysis, but that's been our
21 intention and our view of what we've been aiming at.

22 The complementary solutions in contrast are aimed at
23 promoting good long-term forest management, which as I
24 mentioned earlier we see as the antidote to liquidation
25 harvesting, and the complementary solutions are -- I think for

1 any of you who read the summary or the full report --
2 overwhelmingly aimed at positive steps to try and encourage
3 good long-term forest management.

4 After the presentation we will be taking testimony.
5 I'd like to get a sense from the group at this point how many
6 folks would like to speak.

7 It doesn't look like we're probably going to need to
8 set time limits in that case. I would, however, ask you to
9 come up to the microphone so that we can make sure that we get
10 your testimony recorded.

11 We ask you to keep to the point. We would ask you
12 to keep your comments to as brief a period as you feel is
13 necessary to make them -- to be respectful of others.

14 This whole process -- the hallmark of this whole
15 process has been one of getting people together and trying to
16 have and succeeding in having a civil and informed dialogue on
17 this process -- on this issue, recognizing that not everybody
18 agrees.

19 That's part of the beauty of living in a democracy
20 is that everybody gets to have their opinion, and we all need
21 to be respectful of divergent opinions and be willing to
22 listen. So we ask you to hear the testimony in that spirit.

23 And with that, Mr. Commissioner, is there anything
24 that you'd like to say at this point?

25 MR. MCGOWAN: I would just reiterate that we are

1 here to listen. I think there's been a lot of work put in on
2 these rules for a long period of time, and we're here to hear
3 your comments this evening.

4 MR. GIFFEN: Don, do you want to lead us through
5 things?

6 MR. MANSIUS: Good evening. I'm just going to back
7 up a little bit and talk about the history briefly of the
8 package here tonight.

9 This proposed rule is part of the Governor's forest
10 stewardship initiative. This initiative has six goals: One
11 is to support approved procurement practices at mills; the
12 second piece, this rulemaking to substantially eliminate
13 liquidation harvesting; a third piece, which I'll touch
14 briefly on, is to identify complementary solutions to the
15 issue of liquidation harvesting; the fourth piece, supporting
16 forest certification, especially for small landowners, provide
17 leadership by example, and continue Maine Forest Service
18 monitoring and reporting on liquidation harvesting.

19 Last spring the Governor presented and the
20 Legislature enacted LD 1616, an Act to promote stewardship of
21 forest resources. A copy of that Act is over there on the
22 table.

23 The legislation contained the following elements:
24 There's a policy statement that defines the public's interest
25 in the Maine forest and a finding the liquidation harvesting

1 is incompatible with those interests.

2 There's a definition of liquidation harvesting,
3 which means the purchase of timberland followed by a harvest
4 that removes most or all commercial value of standing timber
5 without regard for long-term forest management principles and
6 subsequent sale or resale, attempted resale, of the harvested
7 land within five years.

8 There was a direction to the department to develop
9 the rules, the reason we're here tonight. There was also a
10 direction to the department to report to the Legislature on
11 complementary solutions.

12 So it's all part of a package. If you picked up a
13 copy of this picture here over at the table, it shows there's
14 basically three elements to this: There's the rules; there's
15 a set of incentives; and then there are a couple of
16 disincentives that are proposed to deal with this issue.

17 I'll just go over it briefly. The complementary
18 solutions report had a number of incentives proposed. They
19 deal with issues such as providing loans or loan guarantees
20 for sustainable forest management for people to be able to
21 purchase land and hold it and manage it for the long term
22 according to certain conditions; incentives for people to
23 consolidate their ownership instead of breaking them up.

24 MR. GIFFEN: There's a revolving loan fund for
25 forest management certification expenses. The loan program

1 for timber purchases for folks who are going to be undertaking
2 sustainable management; looking at the issue of how can we
3 encourage the investment of retirement funds from individuals
4 in sustainable forest management.

5 Apparently this is currently allowed under state and
6 federal rules but is difficult to do because there are not
7 institutions, there are not folks who are set up to provide
8 the management function that's part of such a program.

9 It seems like the meshing of retirement fund
10 objectives for individuals, as well as for big institutions
11 with long-term forest management, is a good marriage. There's
12 a good line-up there. So we're interested in exploring how we
13 could establish models to allow more of that to occur.

14 Don's talked about providing incentives for
15 consolidation of timberland management. We've also talked
16 about considering reductions in capital gains tax on
17 sustainably managed land.

18 The idea is that if somebody holds land for at least
19 ten years, that they would get a reduced capital gains tax at
20 the time that they sold it. If they hold it for 20 years, the
21 capital gains tax would be eliminated. The purpose here is to
22 try and encourage people to hold land for the long term
23 thinking in terms of at least cutting cycle.

24 Also, exploring ways to mitigate estate tax impact.
25 We've heard very frequently that while there are ways to plan

1 your estate such that the land doesn't need to be liquidated,
2 in too many cases people don't plan properly and oftentimes the
3 people who inherit the property end up having to liquidate it
4 in order to pay the estate taxes. So we're interested in
5 exploring what else might be done to eliminate that problem.

6 Minnesota has recently adopted an innovative program
7 which provides payments to landowners who agree to abide by
8 certain principles of forest management and land use.

9 We're monitoring that program. It's a per-acre
10 payment. It's not a replacement for the Tree Growth Tax Law,
11 but it's in addition to the Tree Growth Tax Law -- it could be
12 in addition to the Tree Growth Tax Law.

13 My understanding is that people in Minnesota
14 generally are getting more money back from this payment
15 program than they pay in taxes.

16 So those are the incentives, overwhelmingly positive
17 kind of recommendations.

18 Disincentives include prohibition on subdivisions.
19 The Legislature considered a bill in this regard this session,
20 and that has received a majority. It ought to pass coming out
21 of committee, and we're also suggesting that we monitor
22 whether or not this whole system works -- the rules, the
23 incentives, the disincentives -- and revisit the issue of
24 whether or not additional disincentives or additional
25 incentives are needed if it proves not to work over time.

1 So that's what the complementary solutions report
2 includes contains.

3 MR. MANSIUS: I'm just going to touch briefly on the
4 field study that Maine Forest Service conducted last year to
5 improve our knowledge about the extent of liquidation
6 harvesting.

7 In 2003 our staff selected a 7.5 percent sample of
8 all the harvests conducted in 2001/2002 to estimate the
9 acreage bought and harvested and sold in a five-year period
10 and to characterize the harvesting that took place on these
11 parcels.

12 Our preliminary findings are that just under 20
13 percent of the acreage on an annual basis has experienced at
14 least one change of ownership within the five-year period;
15 5 percent of the acreage on an annual basis was purchased,
16 harvested, and sold within five years of the original
17 purchase; 14.5 percent of the acreage on an annual basis has
18 been harvested, but it's not been held for the five-year
19 period, so the final disposition of those acres remains to be
20 determined.

21 We eliminated 2.5 percent of the acres as unlikely
22 to be liquidation harvesting because there were changes of
23 land use that were approved prior to harvest or there were
24 transfers between family members and also transfers among
25 certified landowners. All of those are exempt under the

1 proposed rule.

2 We found that 2.2 percent of the annual harvest
3 acres we looked at, representing roughly 12,400 acres of the
4 565,000 acres in Maine, could be considered as meeting the
5 criteria of liquidation harvesting.

6 Our staff found that in general all of these sites
7 were heavily harvested. Eighty-two percent of the acres
8 visited had post-harvest stocking of less than 40 square feet
9 of basal area per acre, and damage to the residual stands on
10 these sites was quite prevalent.

11 While many of these sites were heavily harvested, we
12 found no violations of the Forest Practices Act.

13 In the estimation of our field staff who are all
14 professional foresters, 60 percent of the harvest acres were
15 considered high grade harvests that demonstrated no
16 silvicultural and showed little promise for the residual stand
17 to recover within a reasonable time.

18 We're going to be conducting additional field work
19 to confirm and formulate final findings, so I would encourage
20 people to use these preliminary findings with caution.

21 Now I want to speak just briefly about the content
22 of the rule and then turn it over to you folks.

23 There's copy of the rule over here if you don't have
24 one. There are nine sections. I'll touch briefly on each
25 one.

1 Section 1 contains the purpose statement, and that's
2 basically to substantially eliminate liquidation harvesting as
3 the Legislature has defined it.

4 Section 2 makes for some minor amendments to the
5 Forest Practices Act rule. They are new or amended
6 definitions that occur with this rule, and the intent there is
7 to make the definitions between the two rules consistent.

8 Section 3 describes the scope and the applicability
9 of the rule.

10 Section 4 contains the definitions necessary for
11 people to understand and implement the rule.

12 The next two sections, 5 and 6, are really the meat
13 of what we're here for tonight.

14 Section 5 contains all of the exemptions to this
15 rule. The activities of any landowner or land manager who
16 qualifies for one or more of the exemptions are not subject to
17 this rule.

18 In our estimation the exemptions with the largest
19 impacts are for landowners who own 100 acres or less
20 statewide, harvesting on parcels of 20 acres or less
21 regardless of how many acres people own, harvesting done by
22 certified master loggers on parcels of 500 acres or less,
23 lands that are independently certified as well managed.

24 When you take all those together, you've knocked out
25 a substantial number of the acres that are harvested each year

1 in Maine.

2 Section 6 contains the harvest standards for any
3 harvesting that is covered by this rule, and essentially any
4 harvesting that is either subject to this rule either must
5 conform to a harvest plan that's prepared in advance that
6 meets the standards identified in the rule and be certified by
7 a licensed forester, or the harvesting must not remove more
8 than 40 percent of the volume on the parcel.

9 A landowner may apply to the Maine Forest Service
10 for a hardship exemption. If a situation arises in which they
11 need to sell a parcel that they intended to hold for longer
12 than five years and they harvested it heavily but their
13 circumstances dictated otherwise, they can apply to us for a
14 hardship extension, and they can use that once in a five-year
15 period.

16 Section 7 identifies responsible parties. All
17 responsible parties -- that means the landowner, the logger,
18 and any licensed forester -- working on this harvest are
19 jointly and severally responsible for compliance with the
20 rule.

21 Section 8 contains a various procedure. It's
22 actually spelled out in our Forest Practices Act rule, but
23 there are certain conditions where strict compliance with the
24 rule would work an undue hardship on a landowner, the
25 landowner can apply to us for a variance.

1 And finally the effective date, which at this point
2 we're proposing January 1, 2005.

3 As you'll note, if you look through the rule, there
4 are many situations that are exempt from the rule, and Alec
5 has said -- and as the Commissioner has said -- this is
6 intentional because we want to adhere to the legislative
7 direction as closely as possible and target the rules strictly
8 on the behavior of greatest concern, and we also want to
9 minimize the unintended consequences of this rule.

10 With that I'm just going to go over some ground
11 rules for tonight, and then we'll turn it over to you folks.

12 To help us make this hearing as productive as
13 possible, first, if you would like to speak, please raise your
14 hand and you'll be recognized by Alec.

15 Once you've been recognized, please come up to the
16 podium and sign in. There's a pen and sign-in sheet up here.
17 Just leave your name and your address if you wish to.

18 When you begin speaking, please state your name
19 clearly and the name of any interest you are representing
20 tonight.

21 As Alec said, please keep your comments short and on
22 the topic. If you're submitting written testimony to us
23 tonight, you don't need to read it, a summary will be fine.

24 If there's time remaining at the end of the session
25 and you have additional remarks to make, we will allocate that

1 time proportionately.

2 We have a court reporter here tonight who is
3 transcribing the record, so it would be helpful to her if you
4 speak clearly into the microphone.

5 If you don't wish to speak tonight or if you have
6 additional thoughts after the hearing, you can give us written
7 comments.

8 You can leave them with me before we leave tonight.
9 If you're not ready to comment now, you can send them to me by
10 regular mail or by e-mail and that information is or was at
11 the table or you can see me afterward and I'll give you the
12 information.

13 As Alec said, we need your comments by April 5th.

14 I just want to remind everybody that this is a
15 public hearing, it's not a debate. It's an opportunity for
16 the Maine Forest Service and the audience to hear from a wide
17 range of audiences on the proposed rule.

18 We may ask you a question to clarify something you
19 said, and we'd ask that you give a concise answer to those
20 questions, but we do not have time for an extended
21 give-and-take.

22 I also ask you to respect the right of all speakers
23 to express their opinions in a respectful manner. Debating,
24 interruptions, and comments from the audience are not
25 appropriate.

1 And again, we're here to focus on the liquidation
2 harvesting rule. We're not here to talk about other issues
3 that are not directly related to this rule, so please keep
4 your remarks on topic.

5 With that, are there any questions about the ground
6 rules?

7 Yes, sir.

8 PARTICIPANT: Not about the ground rules. Is there
9 going to be an opportunity to ask just a couple of questions
10 here?

11 MR. MANSIUS: I believe there's time to do that.

12 Yes, sir.

13 PARTICIPANT: When will that be, after all the
14 comments are in?

15 MR. GIFFEN: If there are any questions, why don't
16 we ask them now so that we're all working with the same
17 knowledge base.

18 MR. MANSIUS: Could you state your name, please.

19 MR. ROKESON: My name is Dick Rokeson.

20 As I understand it, you're not in violation until
21 you go to sell the parcel; is that correct?

22 MR. MANSIUS: That's correct, within the five-year
23 period.

24 MR. ROKESON: All right. So you could proceed as
25 though nothing had changed unless you go to sell the parcel.

1 The second question is, you say that removal of most
2 or all of the timber on the parcel, and here under harvest
3 standards, it says more than 40 percent.

4 That's not most or all.

5 MR. MANSIUS: That's right. The goal is to
6 substantially eliminate there being timber harvesting that
7 removes most or all.

8 If you go to most or all, then we have not achieved
9 the goal of the rule. Forty percent seemed like a reasonable
10 target.

11 MR. GIFFEN: Are there other questions that folks
12 have?

13 PARTICIPANT: Can you tell us your e-mail now?

14 MR. MANSIUS: Yes, my e-mail address is
15 donald.j.mansius@maine.gov.

16 PARTICIPANT: Thank you.

17 MR. MANSIUS: You're welcome.

18 MR. GIFFEN: Any other questions that people have?

19 Let me just add one thing to what Don said, and that
20 is it's important to recognize that these standards do not
21 apply to land that people currently own or owned before the
22 effective date of the rule.

23 This applies to parcels which were bought, cut, and
24 sold in the time period after the effective date of the rule.
25 Anything that you own now is not affected by this.

1 Are there any other questions so we can make sure
2 we're all on the same knowledge base?

3 Jim.

4 MR. ROBBINS: If you buy a parcel that's contiguous
5 to a parcel that you already own, does all of it then fall
6 under this rule or just the parcel you just bought?

7 MR. GIFFEN: You've raised this issue before.

8 MR. ROBBINS: Still don't have an answer.

9 MR. MANSIUS: Could you please state your name for
10 the court reporter.

11 MR. ROBBINS: Jim Robbins from Robbins Lumber
12 Company in Searsmont.

13 MR. GIFFEN: If everybody would state their name
14 when they speak, that would be helpful.

15 We haven't worked all of this out, Jim, but Don, my
16 thought is that it would apply to the new --

17 MR. MANSIUS: To the 50.

18 MR. GIFFEN: -- to the new purchase, not to the
19 entire parcel. Some of the points that have been brought up
20 since we've drafted it, we haven't redrafted the rule, we've
21 just said, okay, we're going to go to public hearing with this
22 but that's my thought.

23 Other questions that folks have?

24 Yes, sir.

25 MR. DILLON: I just have one. My name is Andy

1 Dillon.

2 I was wondering why wasn't this put into a
3 referendum instead of just the Legislature? How come the
4 people didn't have a right to vote on it?

5 MR. GIFFEN: Well, that's our system of government.

6 The Governor took this on as an important issue, and
7 the Legislature took this on as an important issue, and they
8 passed the bill and gave us this direction, and that's the way
9 the system works.

10 MR. DILLON: I understand that. Most things of this
11 depth usually are put in front of the people.

12 MR. GIFFEN: Well, it is being put in front of the
13 people, it's being put in front of your representatives in the
14 Legislature, in both houses of the Legislature.

15 I think in general folks would like to get away from
16 the idea of referenda and try to get on with trying to sort
17 these issues out in a way that involves all of the folks in
18 discussions about how best to solve it.

19 Let me say, we really have benefited from the
20 conversations that we've had with all of the people that have
21 participated in these discussions.

22 Now, that's not to say that you don't have the right
23 to go out and launch a referendum drive if you want to on this
24 issue. That's your right as a citizen.

25 What we're trying to do is to come up with something

1 that is well-reasoned, thoughtful, has the input of a lot of
2 parties, has the input from you folks through these hearings,
3 and get on with it in a way that accomplishes the purpose but
4 doesn't have a lot of unintended consequences.

5 The kind of question that Jim raised -- how do we
6 deal with this and how do we deal with that, he's particularly
7 good at this in holding our feet to the fire -- are important
8 to have considered in this process, and that's what we're
9 trying to do through this way of approaching it.

10 Are there other questions that folks have? Yes,
11 ma'am.

12 MS. THORNDIKE: Karen Thorndike, Mainly Trees,
13 Incorporated.

14 How many logging companies or loggers were involved
15 in making this draft? Did they offer input in this draft
16 proposal?

17 MR. GIFFEN: Yes, loggers were involved, foresters
18 were involved, conservation organizations were involved, the
19 whole group of folks in different interests that you would
20 think of as being concerned with this issue.

21 MS. THORNDIKE: And were they evenly dispersed
22 throughout the state or were there just certain chosen areas
23 of the state?

24 MR. GIFFEN: Let's see, help me, Don.

25 We had one firm from Bangor that was represented on

1 both committees. Harry Dwyer, who I saw come in, and Sam
2 Brown, who are in the area to the south and to the east of us
3 were involved --

4 MR. MANSIUS: Western Maine, Andy.

5 MR. GIFFEN: Oh, yes, Andy Irish from western Maine,
6 who is a logger, was involved, so we had a lot of people with
7 different interests.

8 Cathy Johnson and Diana Circo from the Natural
9 Resources Council were involved. Maine Audubon was involved.

10 We went out of way to try and make sure that
11 everybody was represented at the table.

12 Now, let me say that our objective was to try and
13 come to consensus on these rules and on the complementary
14 solutions report.

15 We were not able to do that, so that group doesn't
16 bear the responsibility. They helped inform us in the end.

17 While we were able to narrow the areas of
18 disagreement, we were not able to get to consensus, so we then
19 had to take the responsibility for putting together this draft
20 set of rules, which I expect you'll hear from the testimony
21 tonight and we've already seen in letters and this, that, and
22 the other isn't necessarily acceptable to anybody.

23 I'm hoping there's somebody out there who likes it.

24 We know that there's criticism of it both from the
25 conservation organizations, and there's criticism of it from

1 the industry.

2 We have tried to come up with a proposal that we
3 feel addresses the problem that the Legislature directed us to
4 do in a responsible manner without necessarily hewing to one
5 group or one person's call for exactly what ought to be done
6 or the other group.

7 We've tried to come up with something that we feel
8 is reasonable and responsible after listening to all of the
9 divergent points of view.

10 MS. THORNDIKE: So when you say we, how many people
11 does that involve?

12 MR. GIFFEN: Well, ultimately I guess you can blame
13 me because I had to pass on whether or not this was ready to
14 come to public hearing.

15 MR. MCGOWAN: How many people were on the
16 complementary solutions when they had the rule drafted?

17 MR. GIFFEN: Probably a total of between 30 and 40
18 would be my guess. Probably closer to 40.

19 People had input, okay, but in terms of
20 responsibility, ultimately it came down to me having to decide
21 with input from Don and other folks on the Maine Forest
22 Service staff.

23 You shouldn't get mad at them, you shouldn't get mad
24 at the people in the group. Hopefully you won't get mad at me
25 either, but if you're going to get mad at somebody, I'm the

1 person to get mad at.

2 Yes, sir.

3 MR. HARRIS: Adrian Harris. When is your final
4 draft going before the Legislature, and will we have a chance
5 to see it before you present it to the Legislature?

6 MR. GIFFEN: We don't know when the Legislature is
7 going to reconvene, and we don't know -- we don't want to
8 dilly dally with this. We want to get this done promptly, but
9 we're expecting that this process will run its course and the
10 Legislature will be out of session at that point.

11 So we'd be looking to present it at a special
12 session that occurs between now and the next regular session
13 of the Legislature.

14 We don't know exactly when that will be. I don't
15 know, Pat, have you heard about --

16 MR. MCGOWAN: I think there will be a special
17 session probably in July or early in the fall.

18 MR. GIFFEN: Okay, so our best estimate at this
19 point is summer or fall.

20 We're not looking to shilly shally on this. We're
21 looking forward to getting on with it.

22 In terms of the process, what will happen is that
23 the Commissioner will provisionally adopt the rules. I would
24 assume at that point they'll be publicly available and that
25 they will then be forwarded to the Legislature for their

1 consideration when they come back into a special session.

2 Any other questions that anybody has? Yes, sir.

3 MR. LAMB: My name is Perry Lamb. You have a range
4 of answers that you're going to give back to the Legislature.
5 Let's say at the bottom of the range is quite a strong
6 opposition to it, is it conceivable that you might -- after
7 you hear everybody and think it all over -- that you don't
8 think it's a good idea to do at all, I mean, just recommend it
9 not be done, or is that an impossible answer -- if it turned
10 out that way, could you answer it that way or just say we
11 reject that possibility?

12 MR. GIFFEN: I think that that's very, very
13 unlikely. I suppose anything is within the realm of
14 probability. We could have a meteor hit the state of Maine
15 which makes all of this irrelevant.

16 Barring something like that, we've been directed by
17 the Legislature, we've been directed by the Governor, to
18 develop rules which substantially eliminate liquidation
19 harvesting.

20 We're taking our charge seriously. That's what
21 we've been asked to do. We intend to report back rules to
22 them.

23 MR. DILLON: Yes, Scott Dillon from T. R. Logging in
24 Madison.

25 After Mr. Lamb's question and your response, so why

1 are we even here if it really doesn't matter?

2 MR. GIFFEN: We're here to discuss the content of
3 the rules which we've been directed by the Legislature and by
4 the Governor to develop.

5 MR. DILLON: You just stated it's not going to
6 matter what we say.

7 MR. GIFFEN: No, I didn't say that. He asked
8 whether or not it was likely that we could go back to the
9 Legislature and say that we think that you were wrong and that
10 the Governor was wrong, that this is not a significant issue
11 in Maine and therefore we're not proposing to do anything.

12 I'm telling you -- I'm being very frank with you, I
13 would be shocked, frankly, if that was the conclusion that we
14 came to.

15 In terms of responses to the rules, how to deal with
16 particular portions of the rules, that's what we want your
17 comments on.

18 Other questions? Yes, sir.

19 MR. REED: Tim Reed. How do you plan on releasing
20 this whole policy?

21 MR. GIFFEN: The rules will be enforced by the Maine
22 Forest Service working with our rangers and with our
23 foresters.

24 They would inspect sites something on the order of
25 70 percent -- Don, if I remember correctly -- of sites that

1 are harvested in Maine where we get a notification or
2 currently inspected, this would be one of the things that they
3 would look for.

4 It's obviously more complicated than just looking at
5 the Forest Practices Act because it involves determining
6 whether or not the land has been bought recently and whether
7 or not it's sold or offered for sale within five years.

8 That's a more complicated issue. It is going to
9 take time, but it would be enforced in the same way that we
10 enforce our current rules.

11 MR. REED: So you think you get around 70 percent of
12 the job sites now?

13 MR. GIFFEN: That's what our rangers report to us is
14 to get around to 70 percent of the job sites.

15 Charlene.

16 MS. KRUG: Charlene Krug, Maine Landowners Alliance.

17 Is the onus on the landowner to determine if there's
18 a possibility that the land that they're potentially
19 purchasing could have been subjected to these rules, and if
20 so, how long is that landowner reasonably expected to wait for
21 a determination from the Forest Service before they go through
22 with the sale?

23 MR. GIFFEN: So what you're asking about is the
24 situation where there's been a piece of land bought after the
25 rules go into effect and harvested after the rules go into

1 effect and then somebody new purchases it?

2 MS. KRUG: That person that purchases it isn't sure
3 whether or not it is subjected to the rules and asks you for a
4 determination but you're so backlogged, how long are they
5 reasonably expected to wait for a determination and hold up
6 that sale?

7 MR. GIFFEN: Okay, well, in the case that you're
8 postulating here, the person who's purchasing the land -- for
9 the second time now we're talking about -- right?

10 MS. KRUG: Yes.

11 MR. GIFFEN: Could purchase it, and it really
12 wouldn't have any effect on their tenure.

13 We would be -- if there was a violation that
14 occurred, let's assume further that the violation -- if there
15 wasn't a violation, then it's a non issue.

16 If there was a violation, we would be looking to
17 establish the responsibility of the first landowner who was
18 involved, the person who purchased it the first time, and the
19 logger and the forester, if there was one, who was involved.

20 Now, if the person was proposing to undertake a
21 subdivision, the second owner was proposing to undertake a
22 subdivision, and if the subdivision bill which is currently in
23 the Maine Legislature passes, then I would say that that
24 person could have a problem if they bought a piece of land
25 which was bought and cut within one year and resold, because

1 the provisions of the subdivision bill would say that that
2 land would not be appropriate to be part of the subdivision
3 for the period of five years.

4 So in that case, the second landowner would have a
5 responsibility to determine whether or not the parcel of land
6 that they were buying was suitable for the use that they
7 intended. That's their responsibility.

8 MS. KRUG: Right. And my question is: Ultimately
9 the Maine Forest Service would have the file say, yes or no, a
10 violation had occurred.

11 What if you're so backed up, how long are they
12 expected to wait for that determination? How long will it
13 take for that determination?

14 If they come to you and say, I'm considering doing
15 what you just postulated about a subdivision, how long are
16 they expected to wait for the Forest Service?

17 You know, realistically you have a backlog like
18 every other government agency.

19 MR. GIFFEN: Under the subdivision bill as it's
20 currently drafted -- and here, Don, correct me if I'm wrong --
21 but my recollection is that if they were caught in that
22 situation, they could ask the Maine Forest Service for an
23 opinion, and they could also go to a private consulting
24 forester and get a statement from that private consulting
25 forester that this lot was not in fact subject to liquidation

1 harvesting.

2 MS. KRUG: Would the Forest Service honor that
3 independent third-party statement?

4 MR. GIFFEN: What that would affect is, it would
5 affect the municipal or LURC's review of the subdivision
6 permit, but we're getting off the topic of the rules and
7 getting on to the business about the subdivision law which
8 hasn't even been passed by the Maine Legislature.

9 MS. KRUG: But my question about the rule, though,
10 is how long does it take the Forest Service to make a
11 determination whether or not a violation has occurred?

12 MR. GIFFEN: It will depend upon the volume of work
13 and what's going on at the time.

14 If we were backlogged with determinations like that
15 that had been requested and we were in the middle of a bad
16 fire season -- either here or out west and some of our crew
17 were out there -- it could take a considerable period of time.

18 But the important point is that if the landowner was
19 in fact interested in doing a subdivision under the changes
20 that are being proposed, which are not even adopted yet, the
21 landowner would always have an out which is they could hire a
22 consulting forester and they could get on with their business
23 of considering a subdivision.

24 Are there other questions? Please, let's try and
25 stick to the rules here.

1 If not, who would like to be the first person to
2 address us?

3 John.

4 MR. OLSON: Commissioner McGowan, director of the
5 Maine Forest Service, my name is John Olson. I'm the
6 executive secretary of the Maine Farm Bureau. It's the
7 state's largest general farm organization of 5,700 members.

8 We are in opposition of the rules as they have been
9 proposed, and we understand that under the current definition
10 of liquidation harvesting, this may affect, I read, between
11 16,000 and 64,000 acres annually. It's been stated tonight
12 that that is approximately about, I think, almost 2 percent of
13 the land that has been harvested.

14 Our concern about this proposal is that there hasn't
15 been any follow up about what happens to that land once it's
16 been liquidated and sold.

17 For example, I'd like to -- this is a case study I
18 guess you would say -- the chairman of our State forestry
19 committee, Clark Granger, who happened to be the Maine Tree
20 Farmer of the Year 2003 and the Northeast Tree Farmer of the
21 Year 2003, and the top four tree farmers of the United States,
22 he has large holdings of forestland. He was able to obtain
23 his holdings by buying parcels that had been liquidated
24 harvested.

25 In his career he has purchased seven such parcels.

1 He has combined the seven parcels into one large holding. He
2 has told me and other members of the State forestry
3 committee -- he's the chairman of our forestry committee --
4 that if this land was not available at a reduced price because
5 all the timber value had been harvested, he would not be able
6 to purchase that land.

7 His point and our point is that if some of the land
8 still has marketable trees on it, other woodlot owners would
9 not be able to purchase that land for long-term investment.
10 I'm talking about farmers and small woodlot owners that have
11 an opportunity to buy land cheaply for the long-term
12 investments, and under this proposal they would not be able to
13 do that.

14 So rather than having strenuous rules, harsh
15 regulations, we encourage more incentives for landowners.

16 I'll be happy to answer your questions.

17 MR. GIFFEN: Who would like to be next? Jim.

18 MR. ROBBINS: Commissioner and director of the
19 Forest Service, thank you for allowing me to testify here
20 tonight.

21 My name is James Robbins, I'm president of Robbins
22 Lumber Company in Searsmont. My family owns a white pines
23 sawmill. We've been in business since 1881 and employ about
24 130 people.

25 We're opposed to the liquidation harvesting rules

1 for many reasons which I'll explain.

2 First, important policy decisions should be based on
3 facts, not emotions. The most recent Maine Forest Service
4 inventory report shows that Maine forests are in great shape.

5 For example, there's been a net gain in timberland
6 of 347,000 just in the last eight years: 1999 inventory shows
7 the standing wood inventory was up 37 percent since 1959, and
8 2002 inventory shows that it has increased 8 percent since
9 1995. It's grown by about 1 percent a year.

10 Therefore, we shouldn't panic that liquidation
11 harvesting is destroying the forest because the facts show
12 that just isn't true.

13 Buying woodland and harvesting it and selling it has
14 been going on as an acceptable and common practice in Maine
15 since timber harvesting began. Only recently did someone
16 label it liquidation harvesting to try to make it look bad.
17 Ninety-nine percent of the people that I talk to don't even
18 know what it means.

19 In your packet I've included seven pictures. The
20 first four I believe are included in your presentation, Alec,
21 to one of the legislative committees; it's the same pictures
22 that are on that right-hand board over there.

23 These pictures, actually, are just simply poor
24 forestry practices that could occur on any harvesting
25 operation. These rules will do nothing to stop such

1 practices.

2 What we need to do is a better job of educating
3 landowners and loggers to prevent such practices.

4 The next two pictures are of a piece of land that my
5 company bought in 1998. If ever a piece of land was
6 liquidated, that was it. We bought it because after being
7 totally harvested it was cheap, it was only a few miles from
8 the mill, and it had good soils. The pine stand, as you can
9 see, it's got tremendous white pine production there, and if
10 we manage it right, it will be a great stand in the future.

11 The last picture of a pine stand on our land was
12 liquidated many years ago, and as a result of proper
13 management it is a beautiful stand today.

14 If you people want to see what pictures I'm talking
15 about, there's a reproduction, another picture of the
16 reproduction, and here's what it will look like probably 30
17 years from today.

18 My point is it isn't whether or not the land is sold
19 after harvesting but how it's taken care of afterwards.

20 The Maine Forest Service should be spending time
21 educating landowners on how to manage their land and less time
22 throwing more regulations at us.

23 The Maine Forest Service study just in on
24 liquidation harvesting shows that approximately 2.2 percent of
25 the land in Maine qualifies, about 14,000 acres a year.

1 Now, just because that land is harvested and sold
2 doesn't mean that it has lost its timberland and it doesn't
3 necessarily cause fragmentation. In fact, passing these rules
4 I believe will cause just the opposite.

5 Over the years my company has bought a lot of
6 harvested timberland because we could buy it inexpensively.
7 Years ago loggers used to let the land go back to the town for
8 tax liens after harvesting because they couldn't afford to
9 hold on to it. They can't oftentimes today hold on to it
10 either.

11 If this law passes so that they have to hold on to
12 it for five years, they'll be done after the first year.

13 Now, you just heard the story about Clark Granger,
14 and that story is in the Tree Farmer magazine as an
15 outstanding regional tree farm in northeastern United States,
16 and I've talked to Clark quite a bit about that, and you've
17 heard the story once and I'm not going to tell you again.

18 But I think that what we need to do, again, it's not
19 what you do, whether you sell a lot, it's how you treat it
20 afterwards, and let's give landowners the education tools they
21 need to do what the Granger family has done.

22 In the past the Maine Forest Service has been very
23 helpful to landowners like the Grangers and us, but lately all
24 the emphasis seems to be on law enforcement. We need to get
25 back to more education for landowners.

1 I believe that this bill will lead to more
2 hydrating. If loggers can only cut 40 percent of the wood,
3 they aren't going to leave the money wood on the land. I
4 would rather buy a piece of land that has been harvested
5 heavily than one that has all the low-grade wood left on it.

6 Because this bill exempts change of use, it will put
7 the loggers at a tremendous disadvantage to real estate
8 developers.

9 If the logger wants to harvest it and then sell it
10 to someone who wants to manage it for woodlands, the developer
11 who wants to do change of use will outbid him. This bill will
12 also encourage change of use because the woodland will be
13 devalued because of more regulations.

14 It also bother me, if this bill passes a logger
15 could go in and cut down to the legal threshold of 30 square
16 feet basal area that exists today and be perfectly legal.
17 However, if at any time during the next five years he sells
18 the land, he suddenly becomes a criminal.

19 I have trouble believing this will be
20 constitutionally legal. Even if it was legal, it would
21 certainly be a terrible disincentive to invest in a woodland
22 since virtually any other investment you can get your money
23 back any time you want.

24 We're seriously considering building a new sawmill.
25 We did a survey and found that 38 percent of our logs come

1 from loggers that sometimes do liquidation harvesting as you
2 define them.

3 If this law passes, you will drive some of the
4 loggers out of business because of the recent low wood prices.
5 Selling a piece of land often help keep these loggers in
6 business. If we lose our loggers and wood supply, we can
7 forget about the new mill.

8 It seems strange to me that this past winter with
9 all the talk in the papers about how the loggers and wood
10 industries in this state need all the help they can get to
11 survive that you want to pass even more regulations that will
12 threaten our very livelihood.

13 I believe in the advent of BMPs. The woodlands of
14 Maine are being managed the best they ever have been. Sure,
15 there are a few exceptions, but let's give the BMPs a chance
16 to work. Spend more time educating the loggers about them.
17 Don't throw the baby out with the bath water.

18 The biggest complaint that we have from loggers or
19 that we hear from loggers is the amount of regulations on
20 timber harvesting.

21 The FPA in Maine is one of the most restrictive in
22 the whole country, and now you want to add more regulations.
23 It's very discouraging to loggers and landowners.

24 It also makes me nervous to pass a law that we don't
25 even know what the penalties will be. That leaves us wide

1 open.

2 Who's going to pay the cost of enforcement? The
3 State is in deep financial trouble now and enforcing this
4 ridiculous law would only compound its financial woes.

5 We are not a dying industry as many people would
6 have us believe. Look at Lord Erwin's statement, this
7 Evergreen Empire -- and that's in your packet -- which shows
8 that paper production is now still slightly more than in 1989.

9 Softwood lumber production is up 50 percent over
10 1989, and hardwood lumber production is up 200 percent over
11 1989. Yet there's approximately 20 percent more wood growing
12 in Maine today than in 1989. Somebody ought to be giving our
13 industry a medal, not making life more difficult for us.

14 We should be providing more forest management
15 education to landowners through the Maine Forest Service and
16 Extension programs at the University of Maine.

17 The industry is already doing a good job educating
18 the loggers on BMPs, master logger, and certified logger
19 professional programs. Nobody seems to be helping the small
20 landowners who own about 35 percent of the forestland in
21 Maine.

22 More education is the answer, not more regulations.

23 Thank you.

24 MR. GIFFEN: Who would like to speak next? Cathy.

25 MS. JOHNSON: Good evening. My name is Cathy

1 Johnson, I'm the North Woods project director for the Natural
2 Resources Council of Maine, which is a citizen-supported
3 environmental organization with about 8,000 members and
4 supporters.

5 The Natural Resources Council of Maine strongly
6 supports the Governor's initiative to eliminate liquidation
7 harvesting.

8 Liquidation harvesting is a blight on the landscape
9 and on the forest industry. It harms wildlife habitat and
10 water quality. It leaves the forest in such poor condition
11 that it won't support any future harvesting or the jobs that
12 rely on harvesting for decades.

13 We believe that the proposed rules are an important
14 step in the right direction towards eliminating liquidation
15 harvesting, and we support them.

16 They are narrowly focused on the problem, and as
17 such will not fix all of the problems in the Maine woods; but
18 we are hopeful that they will be effective in eliminating
19 liquidation harvesting.

20 We do, however, have several suggested changes to
21 the rules, changes that we believe will insure that the rules
22 are actually effective in accomplishing their goal.

23 The first one is that we recommend that you set
24 standards for regenerating a stand under Option 2.

25 Under Option 2, a harvest plan must include a

1 silvicultural rationale for a harvest that will remove more
2 than 40 percent of the basal area. If the rationale for the
3 harvest is to regenerate a stand, it is critical that there be
4 some limit on when a stand can be regenerated.

5 We suggest that the rule require that regeneration
6 cuts be allowed as a silvicultural rationale for a heavy
7 harvest only as a last resort when all of the growing stock is
8 fully mature and only when a two-stage shelter wood cannot be
9 employed.

10 Our second suggestion is that the third-party
11 certification exemption must require a field audit after
12 harvesting and before sale.

13 As written, the rule would allow the landowner to
14 get his or her land third-party certified, liquidate the
15 timber, and sell prior to the next field audit required by the
16 certification.

17 This loophole should be closed by requiring that a
18 field audit by the certification entity take place following
19 all harvesting prior to sale of the land in order to take
20 advantage of this exemption.

21 The rule should also specify that the auditor may
22 have no conflict of interest with the landowner. As written,
23 the rule prohibits only financial conflict of interest,
24 potentially allowing auditors with non financial conflicts to
25 certify the land and qualify for the exemption.

1 A third suggestion to improve the rules is that the
2 level of fines must be high enough to take away any potential
3 financial benefit from liquidation harvesting.

4 The current fine structure of the Maine Forest
5 Service is inadequate to insure that timber liquidators do not
6 profit from the practice. The fines must be high enough to
7 insure that they're not simply factored in as a cost of doing
8 business.

9 Our fourth suggested change is that you clarify the
10 threatened or endangered species definition to insure that
11 plants are protected.

12 To ensure that the rules achieve the goal of
13 protecting threatened and endangered plants, as well as
14 animals, we suggest that the definition of threatened or
15 endangered species be amended to read threatened or endangered
16 species means species listed as threatened or endangered by
17 the US Fish and Wildlife Service or the Maine Department of
18 Inland Fisheries, and species listed as F-1 or F-2 by the
19 Maine Natural Areas Program.

20 Our fifth suggestion is that you close the cut, buy,
21 sell, and the buy, sell, cut loopholes.

22 We are concerned that there are other loopholes in
23 these rules. In particular we're concerned that timber
24 liquidators will simply alter their practices so that they cut
25 the land after entering into an agreement with the landowner

1 to buy the land, then buy and sell the land within a five-year
2 period. Alternatively, they may buy and sell the land and cut
3 it after sale.

4 While closing these loopholes may require
5 legislative change to the definition of liquidation
6 harvesting, we urge the Maine Forest Service to seek that
7 change to insure that these loopholes do not simply become the
8 new standard business practice for liquidators.

9 The Natural Resources Council of Maine greatly
10 appreciates the very hard work by the Maine Forest Service and
11 all of the people who participated in the stakeholders'
12 process and all the work that's gone into the creation of
13 these rules.

14 We strongly encourage the Maine Forest Service to
15 make the adjustments suggested and to adopt the rules.

16 Thank you for the opportunity to comment.

17 MR. GIFFEN: Who would like to speak next? Would
18 everybody who speaks make sure you sign the sheet here.

19 MR. STOWELL: Mr. Giffen, Mr. McGowan, thank you
20 very much for the opportunity to speak here this evening.

21 My name is John Stowell. We were in the forest
22 products business for four generations, my company, going back
23 to my great grandfather, foresters, landowners, forest
24 managers, loggers, truckers, mill people here in Franklin
25 County and in western Maine.

1 Our family no longer is in business. We're no
2 longer forest landowners, and I'm no longer a forest manager.
3 If that disqualifies me here, just say so and I'll sit down.

4 But if I'm not out of line, I'd like to say this
5 about it. I always felt that every timber harvest was a
6 liquidation in the sense that you were liquidating timber
7 which is a hard asset and turned it into cash.

8 So I've been troubled by this name liquidation
9 harvesting because it really isn't accurate. Really what we
10 have here is socially unacceptable forest management
11 practices, and that's what we're dealing with. It's not an
12 environmental issue, and I don't think it's an economic issue.
13 It's just a social issue. People don't like it and they feel
14 they have to deal with it.

15 But that being said, certainly we know a lot of land
16 has changed hands here in the state of Maine over the last 15
17 years. It's a perception of many that there has been an
18 accelerated liquidation of timber on our forestlands and a lot
19 of hard cutting in places.

20 I believe there are forces that are driving that
21 that have not been acknowledged in this timber liquidation
22 study and that State government will never, ever deal with it.

23 Whether you like it or not, there are financial
24 considerations in the ownership and the management of any
25 parcel of timberland, and the thing that has really driven

1 liquidation of timber, in my view, is the persistence of
2 really high real interest rates since 1980.

3 Now, when I talk about real interest rates, I mean
4 the difference between the nominal rate, which is whatever you
5 have to pay for when you go out and borrow money today --
6 4 percent, 5 percent, 8 percent -- and the growth rate that we
7 were getting in timber in this state.

8 Now, I felt that on the forestland that I managed I
9 was getting about 2.5 percent inventory growth in our timber
10 or .45 cords, a little less than a half a cord per acre per
11 year. That's what I was getting in real growth.

12 Now, to that you can add your appreciation. To that
13 real growth you can add your appreciation from changes in
14 stumpage prices. But stumpage prices were very stable from
15 1980 to 2000/2001. Hardwood pulpwood stumpage, which probably
16 cost 40 percent of the timber volume you're getting off this
17 land here in this part of the state, never budged.

18 So here you have interest rates on 30-year
19 government bonds 6, 8, 10 percent. Who in his right mind from
20 a financial point of view is going to hold on to timber, all
21 right, when you can get a much higher return at less risk, at
22 less management costs, at lower taxes, and that is a major,
23 major factor here. I have never heard anyone say that.

24 Maybe I'm crazy. I probably am. But by God,
25 there's been a very compelling financial incentive to

1 liquidate timber in this state for a long time.

2 And I'm sorry, but State government cannot do a damn
3 thing about that. I think we're starting to see a return to a
4 more favorable financial climate in this state, and I think
5 that in itself will do a lot to discontinue this liquidation
6 harvesting and cutting good timber down that ought to be left
7 standing.

8 There is a financial incentive today, I believe, to
9 hold on to this timber because it's growing faster than
10 interest rates.

11 I had a saying, and as far as my timber management
12 was concerned, that when trees are growing faster than money,
13 have your money in trees; but when money is growing faster
14 than timber, have your money in the bank. Unfortunately money
15 has been growing faster than timber for a long, long time.

16 It stopped now, thank the Lord, but you talk about
17 sustainability, how in Heaven's name are we going to grow
18 timber sustainably at 2.5 percent when you've got to pay 6, 8,
19 10 percent for your money?

20 It does not make financial sense, okay. And I would
21 hope that when you guys go ahead and make these rules and
22 regulations, that you keep in mind there are forces here that
23 you're not going to be able to deal with.

24 I would say another thing, too. The forest industry
25 and timber landowners and forest management people have not

1 had a very friendly social and political climate to live in
2 going back to probably 1985. I think of the northern
3 forestland study as a factor. We had the forestry referendums
4 in 1964 and 19-- wait a minute, 1994/1995. We had the
5 biodiversity conference in 1994 that went on for a couple of
6 years.

7 I mean, that created a tremendous amount of
8 uncertainty in the minds of investors and put a tremendous
9 cloud over the long-term ownership of forest management; and I
10 believe that is a factor, too, and why we've seen so much land
11 sale and so much timber harvested.

12 I don't know what State government can do about
13 that. I don't blame State government for the social and
14 political climate that we have to live in here.

15 But I hope that they would acknowledge it and not
16 create more disincentives for the forest landowners and forest
17 managers.

18 Anything that adds cost and risk, which I believe
19 those regulations do without adding any value to timber
20 ownership and management, adds a disincentive, and it is
21 disincentives that go a long way to explaining why we have
22 timber liquidation in the first place.

23 If I may while I'm up here, if I may just state one
24 other thing, Maine forest landowners need the Maine Tree
25 Growth Tax Law. Now, the Maine Tree Growth Tax Law has been

1 widely construed as a tax benefit for landowners.

2 Well, okay. In my management, the commercial forest
3 excise tax and real estate taxes took between 15 and 20
4 percent of the value of annual growth year-in and year-out.

5 I mean, if you take 100 percent of accumulated value
6 of annual growth, you have a clearcut. People object to that
7 but there's no problem taking 15, 20 percent year-in and
8 year-out and then after you cut the timber if you have any
9 profit, you better pay either capital gains tax or regular
10 income tax on the gain.

11 The fact is Maine forest landowners shoulder an
12 inordinate tax burden in this state, and it should be
13 recognized; but there's never a year that comes up that the
14 Maine Tree Growth Tax is not under some attack for change or
15 elimination. The fact that that is under attack all the time
16 is again very discouraging to long-term forest management and
17 ownership in this state.

18 I'll conclude right there. Thank you very much.

19 MR. GIFFEN: Who would like to speak? Walt.

20 MR. GOOLEY: It's a pleasure to follow John Stowell.
21 He gave a tremendous speech.

22 I have a prepared speech. I'm a professional
23 forester. I'm a consulting forester, part-time consulting
24 forester. I was the district forester for the Maine Forest
25 Service beginning in 1959 in this area through 1969. Then I

1 moved down to Augusta and I did publications and press
2 releases and stuff like that, and then I directed the forest
3 management program for the State, and I retired in 1993.
4 Retired, well, I've been busy ever since.

5 But I am a tree farmer. My wife and I own 320 acres
6 here in Farmington, and I just finished up serving four terms
7 in the Maine House. I happen to be an "R," and that was from
8 1995 to 2002.

9 Right up front about the Tree Growth Tax Law, it's
10 not a subsidy as a lot of people think. It is a tax for
11 current use, and people just misunderstand it. The Tree
12 Growth Tax Law does help to maintain open space. It's on a
13 statewide basis. I think that's important.

14 My testimony today, it relates to an Act to promote
15 stewardship of forestry resources. I was a Service forester
16 from 1959 to 1969, so I go back quite a ways. Long-term
17 forest management is somewhat lacking in Maine, and there's
18 good and then there's some of the other.

19 Now, my involvement in forest management, as I said,
20 goes back to the 1950s, and as a State Service forester, I
21 established a significant amount of professionally recognized
22 forest management of small woodlands under 1,000 acres in size
23 in western Maine.

24 Since that time, many of those properties have been
25 liquidated and some subdivided and are not commercial forests

1 anymore. Some are still commercial forest. I happen to own a
2 woodlot that was kind of stripped of trees in 1966 and I own
3 it now and it's part of my tree farm.

4 The other thing is that the 40-acre subdivision law,
5 that has made a checkerboard of parts of Maine, and as a
6 consulting forester, I'm doing management plans for people who
7 own 40 acres. A lot of them are out of state. I'm not sure
8 if they have an intent to harvest trees or not, but the lands
9 are under the Tree Growth Tax Law.

10 So yes, I am a part-time consulting forester now,
11 and yes, my 320-acre tree farm was first runner-up in the 2004
12 Outstanding Tree Farm contest, not quite as good as Clark
13 Granger, but hey, close; and my tree farm will never be
14 subdivided. I sell forest products almost every year, and I
15 mark the trees for removal.

16 I'm not sure how many foresters actually mark trees
17 for removal today. There's quite a lot that goes on, but as a
18 State forester back in the 60s, we used to mark just about
19 every tree for removal.

20 Some of it is done on a diameter limit now.

21 Anyway, good forestry means following the US Forest
22 Service silvicultural guidelines and recognizing the A, B, C
23 lines for maintaining residual stands.

24 Now, all foresters understand what that's all about.
25 If you're cutting at the C line or below, their stands are

1 understocked.

2 Sometimes it is practical to remove more than
3 40 percent of a stand and sometimes a clearcut is needed to
4 start a new stand. That's very important.

5 So what I'm saying here is that I don't go along
6 with the 40 percent that's being recommended by the group.

7 I see many overcut woodlots these days right in this
8 area, Franklin County, where the basal area may be, oh, 20,
9 30, 40, whatever, and a resource person recently told me that
10 their hardwood veneer logs that they're buying mostly come
11 from liquidated forests.

12 Loggers will say they bought the woodlots and have
13 to cut them hard to pay for them. I've heard that for, I
14 don't know, 40 years I guess. It is free enterprise, and so
15 I'm not in favor of the 40-percent stand bylaws as proposed,
16 it really is too restrictive.

17 I do support a harvest plan as signed by a State of
18 Maine licensed forester, I guess on parcels over 20 acres in
19 size. Frankly, there are a lot of owners who harvest timber
20 without involving their forester and prefer to avoid that
21 cost.

22 As I mentioned, I'm not impressed with many things
23 that I see in the woods today around here, but I see that the
24 timber has been bought and it's been paid for, and I think
25 that's an important element right there.

1 Owners might be more interested in long-term forest
2 management if capital gains treatment as existed prior to 1986
3 was reinstated. I think that's a very important point. I
4 think that when we lost that in 1986, that did a lot to hurt
5 long-term management.

6 In the meantime, forest insects and diseases, heavy
7 winds, drought, floods, ice storms, taxes, and regulations
8 make long-term forest management and trying to turn a profit a
9 tough endeavor.

10 It's a tough business and it's not easy to carry a
11 woodlot for a long, long time, especially where you've lost
12 long-term capital gains.

13 Now, the requirement for a forest management plan,
14 well, that's a mandate and having been in the Legislature, we
15 legislators, we knew what mandates were. People don't like
16 them and justifiably so.

17 I think that you have to have this part for the
18 forest management plan that State cost sharing for the plan
19 should be allowed, and also there should be an increase in the
20 \$200 State tax credit to a higher figure, it should be a
21 higher figure.

22 Owners under the Tree Growth Tax Law already have a
23 plan, but being a consulting forester, some of the plans
24 aren't followed that closely, and I'm being right up front
25 with you. That's the way I see it.

1 Lastly, the white birch bulk wood market -- you've
2 heard of that, right -- that used to exist here in the state
3 of Maine -- it's almost extinct, and actually the number of
4 loggers has been reduced by two-thirds.

5 There used to be about 10,000 loggers and now
6 there's something like 3500, something like that -- lower than
7 that. The statistics are even worse than that.

8 It takes 60 to 80 years to grow trees to sell logs
9 and veneer, and we don't think -- we don't think -- I think
10 the general consensus today is that a lot of people don't
11 think that far ahead.

12 It's a world market now, and I'm not sure the people
13 in the corporate headquarters think that long term anymore.

14 The world is changing and I've been around a long
15 time and I've seen a lot and I wish you well with what you're
16 trying to do.

17 The question was brought up as to what kind of
18 legislation this was, and of course it is rulemaking and I
19 understand that.

20 Thank you very much.

21 MR. GIFFEN: Just to make sure that everybody is
22 clear on this point, the 40 percent and the harvest plan are
23 options that are available to people.

24 Somebody could choose to limit their harvesting to
25 40 percent or they could choose to have a harvested plan. The

1 thinking behind the 40 percent is that it's a light harvest
2 that should allow for a residual stand that has management
3 potential, and that if somebody wants to go beyond that, they
4 should have a harvest plan for doing so signed off by a
5 forester with silvicultural prescriptions which show why the
6 harvest should exceed the 40 percent.

7 The 40 percent, the rationale for that is it's
8 existed as a standard in shoreland zoning and in the Land Use
9 Regulation Commission rules for a considerable period of time.

10 It's been shown to work in those areas to be
11 effective, and our research on harvests that are done by the
12 Bureau of Parks and Lands on their lands, which are actively
13 managed, I believe it was some 85 percent of their harvest
14 last year removed less than 40 percent of the volume.

15 So it is something that can be commercially viable
16 and feasible.

17 Are there other -- how many other folks want to
18 talk?

19 We're planning on being done by 9:00, so if we get
20 close to that, we may have to have a time limit. Please keep
21 your comments brief.

22 MR. GAMBLE: Commission McGowan, Director Giffen,
23 Mr. Mansius, thank you very much for this opportunity to
24 speak.

25 My name is Gordon Gamble. I am a licensed forester.

1 I'm a resident of Roxbury, Maine and am testifying here today
2 on behalf of Wagner Forest Management, where I am the forest
3 certification manager.

4 Because we feel that these rules cast a very wide
5 net to solve a comparatively small problem, Wagner Forest
6 Management is in opposition to these rules.

7 I do have some written testimony that I'll provide
8 to you, but in order to try and keep things brief, I'll just
9 focus on one aspect of that in my verbal remarks.

10 Basically what I would like to talk about is in the
11 harvest rules, the harvest option standards that were referred
12 to by Mr. Gooley on the harvest plan.

13 While there is -- we do adhere to the Tree Growth
14 Tax Law and have a harvest management plan, we feel that the
15 plan as outlined in the rules is impractical, overly
16 bureaucratic, and too costly to be a true viable alternative.

17 If a parcel is intended for a sale in advance of
18 harvest, it is conceivable that a harvest plan that could meet
19 these standards could be developed. We have the professional
20 foresters on staff, we do develop plans prior to going forward
21 with harvest.

22 However, land sales -- especially conservation
23 sales -- often are not initiated prior to harvest activity.
24 Such sales will likely be more difficult because of very
25 restrictive aspects of the available options in these rules

1 and a lack of a real exemption for forestlands under
2 third-party certification or exemption for conservation sales.

3 Wagner Forest Management has many clients, and as
4 you're probably well aware, our clients own over a million
5 acres in the state of Maine. They have different objectives.
6 They have different histories, of cut history, and so we're
7 trying to manage, as much as we can, policies that adhere to
8 all those objectives, but we have to move back and forth and
9 we have to remain flexible.

10 The detail required for Option 2 goes far beyond our
11 current practices. We do consider conservation wildlife
12 habitat, biological on a landscape scale, and these values are
13 factors in determining harvest sites and prescriptions.

14 We undergo training for our foresters. We're right
15 now trying to set up training with Maine Natural Areas Program
16 regionally on each of our tree farms.

17 So it's not so much that we don't believe in those
18 things, but we feel like -- Alec, I believe you talked about
19 unintended consequences -- these rules really sort of capture
20 a lot of us in that net of unintended consequences that makes
21 it very problematic for us to adhere to everything without
22 costing us a lot of money.

23 Typically we do not consult with Maine Natural Areas
24 Program and the Department of Inland Fisheries and Wildlife as
25 required in Section 6(b)(g) on every stand. We have it

1 included in our GIS.

2 We refer to that but a site consultation, unless it
3 is a specific deer wintering area or something like that, we
4 do not meet with them and we feel that is burdensome.

5 The stand level, description of the stands and
6 silvicultural rationale, sounds like an easy thing, the thing
7 that you should do, but again, we're talking about a broad
8 ownership pattern and so forth.

9 Our foresters make decisions on the stump, and to go
10 into the detail that is laid out here looks like requirements
11 to us that would become very burdensome.

12 Wagner Forest Management has a demonstrated history
13 of commitment to long-term forest management and land
14 conservation.

15 We believe our adherence to long-term management
16 naturally results in maintaining biological diversity
17 enhancing wildlife habitat; however, our harvests are mostly
18 intended as a means to supply forest products to our customers
19 and increase timber and land values. They are not necessarily
20 intended as a means to conserve wildlife habitat and
21 biological diversity.

22 With that I'll conclude.

23 MR. MANSIUS: Gordon, I have a question.

24 MR. GAMBLE: Sure, Don.

25 MR. MANSIUS: Do you maintain the current databases

1 for occurrences of natural areas of IF & W in your GIS? Is
2 that what I heard you say?

3 MR. GAMBLE: Yes.

4 MR. GIFFEN: Sir, do you want to speak?

5 MR. HARDY: Good evening Commissioner McGowan and
6 the rest of the committee.

7 I come here tonight to testify basically as a
8 landowner. My name is Fred Hardy and I own a dairy farm in
9 New Sharon, about 175 acres of that is wooded.

10 I always felt that we have done a reasonably good
11 job of trying to care for the woodland, and if my forester is
12 here tonight, I was late getting in here, but anyway, I think
13 he would attest to that.

14 However, I think that this liquidation harvesting
15 law is basically a solution that's looking for a problem. I
16 can't imagine any big problem in this liquidation harvesting.

17 I realize that when you drive down the road you see
18 a lot that's been stripped off, it looks a little unsightly
19 for a couple of years, but I guess that's maybe a cost of
20 doing business to the people who don't have anything invested.

21 I think for several years now we have made rules and
22 regulations to control landowners in the general, not only
23 forestry, but certainly forestry in particular, and my biggest
24 concern is that if you invest money in a piece of forestland
25 and you can't do with it what you need to do to get the money

1 out of it, then there's not much point in investing in
2 forestland.

3 I think in my own case, I was just thinking of a
4 parcel of land that I have across the road from my house that
5 somebody might want to -- if I wanted to split that off from
6 the farm, it's got a fairly substantial growth of trees on it,
7 and I'm sure that somebody would be happy to come in and strip
8 that off.

9 However, if I was in a position where I had to have
10 some cash in a short time, I'm sure I'd have to take a much
11 lesser amount of money for that if this law were to go into
12 effect because whoever was going to buy it might not want to
13 sit on it for five years until they can sell it. So
14 consequently, that affects my land values and that's one of my
15 oppositions to this.

16 I just think that we do a little too much tinkering
17 around these forestry issues anyway.

18 Thank you.

19 MR. GIFFEN: Thank you. I believe the gentleman in
20 the checkered shirt there, then you, Doug.

21 MR. FLAGG: My name is Dayrl Flagg. I've been in
22 the forest industry for 20 years. I'm one of the few
23 remaining wood cutters that are left and it's a tough
24 business.

25 I think this new proposed rule is going to have a

1 very adverse effect on business. Buying and selling woodlots
2 is a way of life in Maine, it always has been. My grandfather
3 did it, and his great grandfather did it.

4 I've actually bought and sold woodlots that my
5 grandfather sold to somebody. I mean, it's just a way of life
6 in Maine. It's helped me in hard times and many other wood
7 cutters too -- when the market conditions aren't right, you're
8 promised all these things from the mill and they don't come
9 through with their contracts, you have a piece of land you can
10 sell to get out of it so you don't go bankrupt. You know, you
11 get the rug pulled out from under you all the time.

12 It's not an easy business, and people sit behind the
13 desk and make all these rules and regulations, and you've got
14 to get out there and see what's actually happening.

15 Cutting over 40 percent is not all that bad. One
16 lady said here, it's hard on the wildlife. Well, I've been in
17 the woods all my life and I totally disagree with that. Deer
18 and moose, they need the young growth to eat and thrive,
19 partridge need the young growth to thrive. If we had all
20 mature woods, our wildlife wouldn't do that good.

21 There's many issues here people don't understand.

22 Just because land is being bought, cut, and sold
23 doesn't mean it's being misused or mismanaged. Cutting dying
24 and mature trees can amount to well over 40 percent.

25 I mean, 2.2 percent is a small number, and much of

1 this is probably not being developed but it's left to being
2 grown by growing trees that other people are buying from you.

3 For example, I have a similar story to Clark
4 Granger's there. Three years ago I bought four lots in
5 Waldoboro containing over 300 acres, and I cut it fairly hard
6 but it looked good and I didn't mismanage it I didn't feel.

7 Just recently I sold this property to a land trust,
8 and they agreed to manage it and always keep it wild.
9 Wouldn't be able to do that with this new rule. I cut it too
10 hard. I sold it within five years. Now this land is being
11 forever wild and it's being managed, and people are able to
12 use it, snowmobiling or whatever.

13 I think we've got enough laws and regulations now on
14 our shoulders; we don't need another straw to break the
15 camel's back here.

16 I guess in conclusion I'd like to say like the other
17 fellow did there, are we not looking for a solution without
18 having a problem?

19 Thank you.

20 MR. GIFFEN: Doug. Doug was one of the members of
21 our stakeholder group who worked on the rules. I expect him
22 to be an enthusiastic supporter.

23 MR. DENICO: Alec's proud of me now, but he wasn't
24 proud of me a while back. This is an improvement, Alec.

25 My name is Doug Denico. I'm representing Plum Creek

1 tonight, and I reside in Madison, the star town of Somerset
2 County.

3 Obviously, I'm not dressed for the occasion, I only
4 own three ties, but I'll make it up maybe in a polished
5 speech, maybe not.

6 I don't have anything to give you tonight. I'm
7 going to speak a little bit. I knew I had gone over the top
8 when my notes here exceeded the bulk of the rule, so I've just
9 outlined some things and I'll talk, but I will send you an
10 electronic copy of what we're going to say officially sometime
11 in the next week or two.

12 In the spring of 2003, the legislative hearing,
13 Plum Creek supported the spirit of LD 1616, an Act to promote
14 stewardship forestry services which proposed rulemaking to
15 essentially liquidation harvesting.

16 Plum Creek remains in support of positively
17 addressing the issue of liquidation harvesting. There, I hope
18 you're happy.

19 We believe a lot has been learned about liquidation
20 harvesting over the past few months that brings Plum Creek to
21 some conclusions of resolving this issue; they're
22 unfortunately not consistent with the proposed rule. Sorry,
23 Alec.

24 Plum Creek hopes its comments will be taken in the
25 spirit by which they are being offered to achieve the intent

1 of LD 1616.

2 Plum Creek does not practice liquidation harvesting;
3 however, we remain very concerned about the spectra of
4 ineffective rules and their unintended consequences.

5 A couple of notes on the extent of the problem. We
6 want to congratulate the Maine Forest Service for undertaking
7 a statistically valid sample and analysis of harvested land to
8 determine the extent of liquidation. This issue has been
9 driven by anecdotal information for too long.

10 I think it's an awful easy leap when you go buy a
11 lot and you look out, even if it's been the best harvest in
12 the world, but if it's a regeneration harvest and there isn't
13 a lot of trees, people are going to think poorly about it.
14 That's the one thing that troubles me.

15 I don't believe we'll ever get across to a lot of
16 people in Maine that heavy harvesting isn't liquidation, and
17 that's the challenge.

18 I know the Forest Service at one time was thinking 6
19 or 8 percent, and there were even estimates of up to 64,000
20 acres, and it's a relief for us to find out that it's
21 2 percent, because that's something I think we can deal with
22 effectively.

23 Analysis of the 2003 field survey concluded that
24 approximately 2 percent of the annual harvest met the
25 definition of liquidation. We believe this is a valid number

1 based on the rigor of the sampling protocol.

2 It is our understanding that no previous attempt to
3 define the problem approached the reliability of this
4 investigative process.

5 We are also of the belief that recent statutory
6 changes to the Tree Growth and subdivision laws and ongoing
7 training of loggers by various groups has improved the
8 harvesting practices of many loggers resulting in the
9 2 percent figure.

10 We should not be surprised but encouraged that the
11 level of liquidation is less than anticipated. There's a
12 reason for that. One of the big reasons I mentioned
13 previously is people drive by, they look at some that doesn't
14 look good and they reached a conclusion.

15 You have helped solve that dilemma.

16 From previous annual Maine Service reports it was
17 established that most sales of liquidated land occur within
18 two years of purchase. The current study showed that about
19 80 percent of the 33 liquidated parcels were sold within 24
20 months of purchase.

21 All this validates to us is that 2 percent is a good
22 figure. It isn't going to grow appreciably, we're convinced
23 of that, Alec.

24 Now about the concerns with the proposed rule. We
25 believe the proposed rule is not a viable alternative for many

1 landowners to adopt. We believe that many new owners will
2 make other choices, like operating under the FBA.

3 Option 1. Option 1 of the rule has the potential to
4 substantially eliminate, but as written will not be effective.
5 There are positive aspects of Option 1. We believe that
6 averaging the harvest, immensurable volume over the parcel will
7 give landowners the flexibility needed to develop appropriate
8 silvicultural prescriptions.

9 One thing that's always scared us to death when
10 somebody comes out too 40 or 50 percent is one of our biggest
11 problems in Maine is beech; and when you start to leave 40
12 percent or 50 percent over the landscape, all you're doing is
13 promoting beech growth and we don't want that.

14 But the way you've set this up is you can clearcut
15 spots, you can shell in spots, you can OSR in spots. In
16 principle I think this is better.

17 The requirement that harvesting activities must
18 include reasonable efforts to protect regeneration is a
19 positive approach but should be evaluated in terms of
20 regeneration needs for the site.

21 The way this Option 1 is set up, right now if
22 someone only cut 10 percent of the volume and they made a mess
23 of the regeneration, they could be in violation.

24 What I'm saying here, Alec, if it's not really a
25 regeneration cut, you shouldn't put too much force on the

1 residual regeneration, how it's treated.

2 If it isn't going to make the next stand, it's not
3 an issue. So that piece is important; it could be very
4 useful, it could be very harmful depending on how you folks
5 evaluate that.

6 We believe using 40 percent of the basal area is the
7 real flaw in Option 1. On average much more than 40 percent
8 of the basal area is now being harvested from liquidated
9 stands.

10 When I looked at your charts -- and I didn't have
11 the base stated -- but when I looked at your charts pre- and
12 post-harvest, it looked to me on average the stands started
13 out with 75 square feet of removal of material, 4.5 inches,
14 and they ended up down around 15. I've got to guess but
15 that's quite a difference.

16 What we believe is if this disparity between the
17 allowed 40-percent removal and what is now being removed, we
18 doubt will make Option 1 attractive to people that heavily
19 harvest it. It's just too big a disparity. Forty percent is
20 far from what's being left now.

21 If you could see your way to increase that 40
22 percent to something much more reasonable, I think that you
23 would find people would be more apt to operate under Option 1
24 and still leave a measure of basal area out there more than
25 they're leaving now. I think that's really viable.

1 If you bring that 40 percent down to something
2 reasonable for folks, I they would pick this. But 40 percent
3 isn't going to work.

4 I was going to leave you alone, Alec, and I can't.
5 You mentioned that the 40 percent, and based on using 40
6 percent on a couple of things, one is the LURC rules in
7 riparian zones and the other is public lands.

8 I don't mind if you try to compare apples and
9 oranges, but you're comparing apples and bales of hay on this
10 one. I'll make my point clearer.

11 The 40 percent of LURC's is around the riparian
12 zones. Those are sensitive areas. If you only take 40
13 percent for many, many reasons, and it just doesn't make any
14 sense to take that kind of rule and spread it out over the
15 landscape, it makes no sense. I don't think you can fairly
16 make that comparison.

17 Also, your comparison of public lands -- and I'm not
18 here to beat up public lands. They have a mandate, they carry
19 it out very well; but to compare their 40-percent harvesting
20 by stand as a bona fide and legitimate standard for the rest
21 of us just doesn't cut it.

22 The last I checked, they didn't have any debt
23 service, they didn't have any taxes, right, and as far as I
24 know, their cut is based on what they need to keep the
25 department going rather than based on the allowable cut.

1 That's the way it's set up in the law, and that's the way it
2 is.

3 They don't have to operate like we do. We have a
4 whole different set of parameters, so I think your comparison
5 there, if you're going to base 40 percent, I can't wait to see
6 your basis statement on this. But you shouldn't be using LURC
7 or public lands. It just doesn't make any sense.

8 We also found a discrepancy between Option 1 and the
9 definition of liquidation harvesting. We recall the State
10 forest inventory data presented to us by Ken Austin shows that
11 a 50-percent base layer removal from mature forest types
12 corresponded to only 60 percent of the stand value and that
13 highly approaches "most or all commercial value" in timber
14 that's in the liquidation harvesting definition.

15 So you just aren't there yet. I'll make a comment.
16 I think it's always very important that when you have a bill
17 like 1616 that the rule that comes out of that should be
18 consistent with the bill.

19 If you don't, then you start to lose creditability
20 for the whole process, and that's how we got into having to
21 have agencies go back to the Legislature because the rules
22 weren't being consistent with the laws.

23 Option 2. If the Maine Forest Service is counting
24 on a restrictive Option 1 to entice new owners to adopt
25 Option 2, we believe the agency was very disappointed.

1 The history of landowners pursuing more complicated
2 over less complicated regulations to increase harvest volumes
3 of operational efficiencies is very poor.

4 I don't know of many landowners that ever opt out of
5 standards for timber harvesting in shoreland zones to get a
6 permit. I don't know as there's been any Category 3 clearcuts
7 in this state -- you know that Don -- compared to five or
8 seven years ago. They're just too complicated.

9 So the landowners will cut a little more wood to
10 jump out of something that's relatively simple to something
11 complicated. That's what Option 2 is, it's very complicated.

12 Option 2 is really a major shift also in the
13 regulatory approach. Issues such as biodiversity and
14 application of BMPs, which have been voluntary and handled
15 through training and education, will now be regulated.

16 These changes are a lot of new ground for landowners
17 to accept. To be successful, Option 2 needs to focus on
18 operational planning components of harvesting and the
19 enforcement of existing law relating to wildlife and habitat
20 issues.

21 Exemptions. There are a number of exemptions that
22 have been well thought out, but we believe that an exemption
23 for internal transactions between subsidiaries of a parent
24 company must be added. Guess who I'm talking about. That's
25 us for sure.

1 It also needs to be stated that all forestland be
2 exempted if purchased five years after the rules go into
3 effect. I know that's kind of assumed, but it's never stated
4 anywhere.

5 This last exemption will clarify the certification
6 exemption as well in that lands certified for five years after
7 the rule take effect whether they retain certification or not.

8 Other concerns and observations. Although not part
9 of the rule, there appears to be a real movement to increase
10 fines for violations just under this rule, and I can't think
11 of a better way to entice people to opt into this rule if
12 you're going to hammer them with a brand new set of fines. I
13 don't get the logic. You should entice them in gently rather
14 than take a hammer to them.

15 I'd ask you to rethink the way you're going now to
16 get new fines and violations.

17 The fact that legislative committee was told that if
18 this rule was not effective in addressing liquidation then
19 other measures would be considered, was not a very positive
20 statement to many landowners/stakeholders. If, as we expect,
21 the rule is flawed as we're saying tonight, we can expect just
22 more legislation with the unintended consequences and I don't
23 think we want to go that way.

24 Other solutions. One obvious solution is to draft a
25 rule to encourage participation and thus change behaviors.

1 We've indicated above, as I've just gone through them, the
2 problems with Options 1 and 2 and what could be done to change
3 those.

4 Frankly, though, we're a lot more inclined to
5 suggest that the Forest Service consider a program that would
6 focus on training and education.

7 Several excellent training and educational processes
8 that draw on both private and agency expertise are currently
9 in place. Minor modifications of existing training modules
10 would allow for a program to be quickly put in place.

11 We would look at a training education program as a
12 partnership between the forest industry and the State, a
13 partnership that has worked well in the past. Differences
14 between procedures and actualaries in liquidation, as we've
15 seen already, is a direct result of the training and education
16 that's already gone on.

17 As a landowner we need some certainty in the State's
18 direction on forest regulations. We were very optimistic when
19 the Maine Forest Service stated in a 1999 State of the Forest
20 Report that -- and this is a quote, and I think it's written
21 by Don Mansius -- "During the recent Forest Practice Act
22 rulemaking process, it became clear to both the Maine Forest
23 Service and a number of stakeholders that we have reached the
24 limits of what a command and control regulatory framework has
25 to offer."

1 Does that sound familiar, Don?

2 MR. MANSIUS: Oh, yeah.

3 MR. DENICO: And that's what we're offering to you
4 tonight is about training and education, it's a 2.2 percent
5 problem. You don't need a sledgehammer to solve it, and one
6 thing I haven't said is what I'm told is, we know who the
7 practitioners are, and I know you can't put the spotlight on
8 these people, but it's a definitive problem. It's the same
9 population from year to year. That's an easier population to
10 go out and work with than if it changes every year.

11 Back to my quote, "The industry is still waiting for
12 the day command and control regulations are replaced or better
13 alternatives."

14 So this is your chance. We do not know to what
15 length previous administrations went to resolve the
16 liquidation issue in a non regulatory approach. We do believe
17 that any administration did not look on favorably at the
18 photograph and exhausted for applying new prescriptive rules
19 that will result in unintended consequences and enforcement
20 expenses.

21 Thank you.

22 MR. GIFFEN: Doug, could you -- I missed a couple of
23 your exemptions that you were suggesting. The one after the
24 transfers within a company.

25 MR. DENICO: Yes. I know it's kind of insinuated in

1 this document, but it never really states anywhere if you --
2 whatever you own today, it's not fair game for the rule. And
3 if you own it for five years after the rule goes into effect,
4 then you're not fair game for the rule.

5 It's not really stated.

6 MR. GIFFEN: It does that if you own something today
7 it's not subject to the rule.

8 MR. DENICO: Put in an exemption.

9 And also that piece there, if you own it for five
10 years following from the time the rule goes into effect,
11 you're out of this picture, too. It needs to be stated
12 somewhere.

13 There's a little screw-up on the certification, too.
14 The way that definition exemption is written, it looks like if
15 you were certified for 35 years, the minute you came out you
16 would go under the rule and that's not your intent, I know.

17 MR. GIFFEN: You guys are going to submit specific
18 language for this part?

19 MR. DENICO: Yes.

20 MR. MCGOWAN: Doug, what's the number -- if it's not
21 40 percent -- that would be acceptable to you?

22 MR. DENICO: I have stated in public in front of
23 Alec that it needs to be 60 percent or more.

24 MR. MCGOWAN: One of the things, I know you've put a
25 lot of time into this thing --

1 MR. DENICO: I was a young man when this started. I
2 was thin and I had hair.

3 MR. MCGOWAN: I want to thank you on behalf of the
4 Governor and the people of the state. I know you haven't felt
5 well, and I know you put a lot of time into this, and we
6 really appreciate the work that you've done.

7 Again, I want to thank you. You've been a great
8 asset to this whole process.

9 MR. DENICO: To some I was a pain at times.

10 MR. GIFFEN: We've had many conversations.

11 I think Sam had his hand up and wanted to testify,
12 and then a gentleman over here.

13 Sam Brown was also a member of the rulemaking
14 committee and contributed his time and effort to this
15 laborious task.

16 MR. BROWN: Commissioner, Alec. Thank you for
17 taking the public pulse on this issue.

18 My name is Sam Brown. I'm a consulting forester.
19 I'm a landowner and a part-time logger up in Parkman, Maine,
20 and I'll be very brief.

21 I'm a member of the Forest Stewards Guild, which is
22 a national organization of foresters and other national --
23 natural resource professionals, 40 of whom live in Maine and
24 work in Maine.

25 I'll read briefly from the Guild's positions

1 statement on liquidation harvesting which states that such a
2 practice, quote, is in direct conflict with the mission of the
3 Forest Stewards Guild, which is to promote ecologically
4 responsible resource management that sustains the entire
5 forest across the land. Accordingly, the Guild strongly
6 supports measures to limit liquidation harvesting, closed
7 quote.

8 On behalf of the Guild, I served on the rulemaking
9 committee last year and part of this year and participated in
10 the struggle to define not only what liquidation harvesting
11 is, but also its scope and actual impact on the Maine forest
12 and economy.

13 I was impressed with the forum for expressing many
14 diverse views like -- and as well as tonight -- attempting to
15 find consensus but in the end resorting to compromise.

16 The resulting proposed rule, therefore, does not
17 immediately satisfy anyone; and, unfortunately, in my opinion,
18 therefore does not -- if it fails to accomplish the narrow
19 focus demanded by the Legislature on our committee, on the
20 Forest Service, to substantially eliminate liquidate
21 harvesting and to increase professional involvement in the
22 forest issues.

23 I believe the underlying cause of liquidation
24 harvesting is economic, not silvicultural; and the most
25 effective deterrent will likewise be economic and not

1 silvicultural.

2 The complementary solutions task force decided not
3 to use significant taxation as a penalty, and the penalties
4 suggested in this rule are not severe enough to stop the
5 practice.

6 If Vermont's experiment of combining strict
7 harvesting rules with heavy short-term gain taxation did not
8 effectively stop liquidation harvesting in that state, it
9 seems unlikely that Maine's effort of somewhat restricting
10 harvesting alone will succeed either.

11 That being said, I support this current proposal as
12 a step in the right direction in the interest of long-term
13 forest management, raising the bar for harvesting performance,
14 casting an intense local and statewide spotlight on the issue,
15 and placing more responsibility and trust in professional
16 foresters in Maine and their governing board by having a
17 licensed forester justify landowner's objectives, which is
18 Option 2.

19 That's all.

20 Thank you very much for your time.

21 MR. GIFFEN: Thank you, Sam. I believe this
22 gentleman wanted to speak.

23 MR. KIMBER: Commissioner, Donald, my name is Robert
24 Kimber and I'm a small wood land owner, something of a
25 tree-hugger, though I've cut down many a tree that I've

1 hugged.

2 I'm here in a celebratory mood tonight because I
3 think the rule, whose purpose is to substantially eliminate
4 the practice of liquidation harvesting, is a great idea.

5 As we've all seen, liquidation harvesting isn't a
6 threat only on township-sized ownerships, it is also in the
7 world of small town Maine, where I live.

8 The interlocking ownerships that often make up a
9 large forested area are crucial not only for the timber they
10 supply to the forest products industry, but also for the
11 wildlife habitat and recreational opportunities they provide.

12 When just one of these ownerships is pulled out of
13 the forest base and lost to development, the life of a small
14 rural town is significantly diminished.

15 So I'm wholeheartedly supportive of this proposed
16 rule, and I would like to thank everyone who has worked on
17 formulating it.

18 Also, I would hope that it is still a work in
19 progress and subject to some fine tuning. For instance, as
20 written the rule does not set any penalties for violations,
21 and I would think these should be substantial enough to act as
22 a real deterrent.

23 Also, I see no provisions for anything but the buy,
24 cut, and sell scenario. Can this rule be amended to include
25 the buy, sell, retain timber rights, and then cut scenario?

1 This seems to be a strategy that would escape the reach of the
2 rule as it is formulated.

3 There may be other changes that can be incorporated
4 into this rule, but in any case, I'm happy to see that this
5 draft rule is in existence, and I hope it will remain open to
6 whatever changes will indeed put an end to liquidation
7 harvesting in Maine.

8 That's all I have to say.

9 Thank you very much for that opportunity.

10 MR. GIFFEN: Okay. How many folks do we have left
11 at this point? I guess about the same as when I asked last
12 time.

13 MS. THORNDIKE: My name is Karen Thorndike, and I
14 co-own and operate Mainly Trees in Phillips, Maine. My
15 husband and I have been in the forest industry for more than
16 20 years. Our company owns thousands of acre of woodland, and
17 we employ more than 50 people.

18 We learned long ago that the economics of harvesting
19 wood favored cutting on your land as opposed to cutting for
20 large landowners. Our business could not exist in its present
21 form if all we did was cut wood on the land of others.

22 We need to buy and cut lots in order to survive. We
23 try and buy and hold but economic conditions do not allow us
24 to hold every lot.

25 This rule will be very burdensome for our company.

1 The proposed rule will increase our cost of doing business
2 with no method to recover that increased cost, increase the
3 uncertainty of our business, and make it more difficult to
4 compete, restrict our ability to acquire land from which to
5 harvest the forest products needed by Maine's economy, and
6 unreasonably impose liability on timber harvesters.

7 In addressing increased costs, we are not a large
8 enough company to afford or need a full-time forester. We do
9 use consulting foresters on a regular basis and we respect and
10 need their expertise.

11 Option 2 requires a timber harvest plan which will
12 greatly increase the time and effort we require from our
13 consulting foresters. You might as well call this option the
14 "Forester Full Employment Act."

15 We have no idea what it will cost for additional
16 forester services to prepare a written timber harvest plan,
17 but it appears to be substantial.

18 Long-term forest management principles are not
19 defined in the rule. The criteria for the timber harvest plan
20 do not include landowner objectives, current market
21 conditions, or the requirements to pay for the land.

22 The timber harvest plan ignores the fundamental
23 economics of owning the land, and the sole focus appears to be
24 on undefined long-term forest management principles.

25 This is a serious omission that needs to be

1 corrected. Our economic investment in the land is just as
2 important as the biological diversity and wildlife habitat.
3 The criteria lack balance in this regard.

4 Since the rule imposes additional certification and
5 liability requirements on the forester, we expect our
6 consulting foresters will need to supervise our harvesting
7 activities to a greater extent than in the past. Time is
8 money. We will be expected to pay the cost.

9 Unfortunately, the wood we harvest will not be worth
10 any more money because we comply with this rule. We have not
11 quantified the cost of compliance with this rule to the
12 industry. How can you impose such a burden with no idea of
13 cost?

14 In addition, for the first time as a landowner we
15 haven't had any plans to sell in five years. Our rights as a
16 landowner are limited because we must manage our land in
17 accordance with the rule. This restriction will not apply to
18 the land we already own or land we hold for more than five
19 years.

20 This restriction makes no sense. You are telling us
21 to buy and hold land for more than five years. This will
22 increase our cost of operating and reduce our flexibility in
23 adjusting to constantly changing economic conditions. We need
24 the option to sell our land no matter when we bought it.

25 We practice responsible forestry on all of our land,

1 and the rule will not change what we do, only increase our
2 costs and limit our options.

3 Option 1 is worse than Option 2. Option 1 limits us
4 to removing no more than 40 percent of the wood if we may sell
5 a lot within five years. This restriction makes no sense.

6 We understand that if the rule is to prohibit
7 removal of all or most of the timber followed by the sale of
8 the land in five years, 40 percent is an unreasonably low
9 number. Removing 70 percent of the timber does not remove
10 most of the timber. You need to define "most" and tie
11 Option 1 to that standard.

12 Uncertainty. Maine has a poor business climate.
13 Conditions in the forest products industry are bad. No relief
14 is in sight. We do not need new rules that increase our
15 costs, limit our options, and increase the uncertainty we
16 face.

17 Our land base is our strongest asset. We make every
18 effort to grow our base. We do, however, need the flexibility
19 with our land in order to cope with business conditions.

20 We have had to sell land from time to time in order
21 to make payroll at our company. I wish it was not so, but it
22 is.

23 This rule forces us, when we buy a lot, to predict
24 the future, which we cannot do. When have no way of knowing,
25 when we acquire a lot, whether we will need to sell it within

1 five years. Five years is a long time.

2 Our first objective is to pay for the land we
3 bought. That may require harvest that prohibits us from
4 selling for five years under the rule. We do not have a
5 crystal ball. Do not force us into these decisions.

6 It also restricts availability of new lots. We
7 compete with others for new lots. The increased costs of
8 complying with this rule, coupled with the uncertainty the
9 rule generates, will drive down what we can afford to pay for
10 new lots.

11 We expect we'll not be able to acquire the lots we
12 need since we will be outbid by others. This will impact not
13 only our company and our employees but also the supply of
14 timber available for the forest products industry. Other
15 small operators will be affected in the same way. We do not
16 believe that you have considered these factors.

17 Unreasonable timber harvester liability. We
18 continue to cut wood on land owned by others. We strongly
19 object to being liable for landowner actions. We have control
20 over our harvesting activities. Legal harvesting activities
21 on a lot not subject to this rule will be illegal harvesting
22 activity under the rule.

23 How can we know whether a landowner will sell his
24 land in the future? What can we do to prevent the landowner
25 from selling and thereby exposing us to limit liability?

1 We believe you need to change this liability
2 provision. It is unreasonable.

3 We understand that violation of the rule can result
4 in substantial daily fines that have no relationship to the
5 activity which is prohibited. These fines are excessive,
6 especially as applied to the timber harvester, and need to be
7 changed.

8 Is it any wonder that Maine has a shortage of people
9 working in the woods? Why are we doing this to ourselves?

10 We have reviewed the results of your field study
11 which concludes that 4,125 acres out of the 1,100,000 acres
12 harvested were a problem. We don't believe a problem of this
13 magnitude justifies imposition of this rule on the industry.

14 Our own experience with the lots we've sold over the
15 years is that those lots remain in timber production. We do
16 not believe that liquidation harvesting followed by conversion
17 of the land to other uses is a problem in our part of the
18 state. If it is a problem in other parts of the state, limit
19 the rule to those parts with the problem and leave the rest
20 alone.

21 In conclusion, we believe that the proposed rule is
22 not needed based on your field study and our experience in our
23 part of the state. It will unreasonably increase our cost of
24 operating and inject substantial uncertainty into our
25 operation, and it should not be enacted. The Legislature

1 should be asked to repeal its request to adopt these rules.

2 Thank you.

3 MR. GIFFEN: Okay. Others? Somebody way up back.

4 MR. BARTON: Thank you very much. I've really
5 enjoyed hearing all of your comments tonight.

6 My name is Drew Barton. I'm a forest ecologist at
7 the University of Maine at Farmington here. I live in
8 Farmington. I have 100 acres in tree growth managed by a
9 licensed forester.

10 I want to first express my appreciation to everyone
11 that's done such hard work up to this point and taken us to
12 the point where we are tonight, and that's the thorough work
13 of the Maine Forest Service in first understanding and
14 defining this issue for us and now addressing liquidation
15 harvesting; the serious attention given to the issue by
16 foresters and environmental groups across the state; and by
17 the stakeholders group that, obviously, did a lot of hard work
18 and a lot of debate to develop some ideas that try to resolve
19 some of the problems associated with liquidation harvesting.

20 I know a lot about the hard work that's gone on the
21 last years because I too have spent some of my research time
22 trying to come to grips with liquidation harvesting: What's
23 the problem, what might be the solutions.

24 I wrote an article on my findings that was published
25 last year at Northern Woodlands, which is a fine magazine that

1 looks at all different viewpoints on forest issues.

2 I was invited to give a presentation at the Society
3 of American Foresters gathering about a year and a half ago, a
4 gathering in Maine that addressed liquidation harvesting
5 specifically.

6 And through the entire process, I did a lot of
7 writing, I did a lot of talking; but especially did a lot of
8 listening to all points of view and to data that are out
9 there. I want to try to share some of the things that I
10 learned through that whole process.

11 I think there are a few things that we very clearly
12 know about liquidation harvesting because we have the data on
13 that.

14 One: Liquidation harvesting is real. Every
15 assessment of liquidation harvesting has come to that
16 conclusion. I think the one that we've talked about a lot
17 tonight is the fine work done by the Maine Forest Service.

18 2.2 percent doesn't sound like a lot, but when you
19 add up 2.2 percent of the harvest in Maine, you add it up five
20 years, over ten years, over 20 years, it's a big chunk of the
21 state, a big chunk of forestland.

22 We know that liquidation harvesting is practiced by
23 a few dozen operators. We know that the chunk of land that
24 we're talking about is enough to make a difference in the long
25 term.

1 Now, these quantitative studies are really
2 important, but I think a lot of us that are concerned about
3 liquidation harvesting are moved by it by just seeing what's
4 going on in our backyard.

5 I think anyone can get a good feel for this by
6 simply taking a drive through Carthage or going on the
7 backside of Webb Lake. If you spent much time there, I think
8 you'd get a good feel for what we're talking about, what we're
9 talking about in terms of our own neighborhoods.

10 I think some other conclusions that are fairly clear
11 today, one is that liquidation harvesting occurs not because
12 there are bad people out there, but because there is money to
13 be made in the short term and because our regulations don't
14 guide people toward investing in land for the long haul.
15 That's the core of the problem.

16 Again, I just want to repeat myself. There are no
17 bad people out there that are making decisions. It's simply
18 that regulations that we have now guide people to make
19 decisions for the short term rather than the long haul.

20 My opinion is that liquidation harvesting really
21 works against a very basic value that I think we all share and
22 that is productive, well-managed forestland that provides
23 livelihood, recreation, and wildlife habitat. It's in that
24 context that I support these rules that have been developed by
25 the Maine Forest Service.

1 It's a good first step. They're not perfect and I
2 agree with some of the criticisms that have been leveled
3 against it tonight. I have some of my own as well. So I
4 think that there's some tinkering that can go on.

5 Let me first -- before I tell you what I like about
6 the rule, let me tell you just a few little things that I
7 think could be improved on.

8 A very minor point -- and I will write this up and
9 send details on this. In Section 4 on definitions,
10 definition J on threatened and endangered perhaps, I'm not
11 sure if anybody has pointed this out -- and perhaps I'm wrong
12 about this -- but I think that you probably intend also to
13 include threatened and endangered plant species, but I'm not
14 sure that they would be included under the law that you cite
15 here, but you can check into that.

16 I'm a little concerned about Section 5 on
17 exemptions. I think a lot of exemptions are great and really
18 right on, but one that worries me just a little bit on a
19 technical issue is the one on third party certification.

20 I think in general it's a great idea for an
21 exemption, but it seems technically possible that somebody
22 could get land certified and then harvest it -- and then be
23 exempt from the rules and then harvest it -- taking 90 percent
24 of the basal area as an example -- and then sell it and simply
25 escape any of the provisions, either a third-party

1 certification or the rules that are included in here.

2 So that's sort of a technical concern I have with
3 that exemption. Although, again, I really support the spirit
4 of an exemption of third-party certification.

5 I'm a little concerned in both directions about the
6 language in Section 6(a), Option 1, language on reasonable
7 measures to protect advanced regeneration.

8 I find that sentence a little bit vague, and I'm
9 concerned that could work either way. It could be too
10 restrictive. It could be used to be far too restrictive for
11 some harvests, or it could be used to be not restrictive
12 enough.

13 So more specific language, I think, might help
14 everybody. I know that there's been concerns raised about
15 that previously.

16 Finally, although I have stiff concerns about fines
17 and about making this too much of a stick and not enough
18 carrot in there -- and I understand that, that concern that
19 others have raised -- given the way these rules are -- and I
20 do support them -- I think it is important for it to work at
21 all, there has to be some teeth in the rules.

22 The teeth in a set of rules like this are fines that
23 will make it so that somebody can't simply include the fine as
24 part of the -- sort of doing business, everyday business, if
25 you know what I mean.

1 So if the fines are too low, someone will just
2 calculate, Well, what's the effect of these fines? Is it low
3 enough so I can just ignore this anyway and go ahead and pay
4 the fine?

5 But there's, I think, an important point in a set of
6 rules like this that do act. The purpose of these rules is
7 guide -- is incentives; providing incentives to think about
8 the long term rather than the short term. The only way that's
9 going to work is if fines are high enough to actually do that.

10 All right. So let me say what I like about the
11 rules. I like the 40 percent rule. I think we can quibble:
12 Is it too high? Is it too low? I don't think anybody really
13 knows, objectively, what that percent is or what it should be.

14 I think there's some evidence from the field that
15 this can be commercially viable. I think there's
16 silvicultural evidence produced by the Forest Service -- the
17 A, B, and the C lines -- that suggests that this might be a
18 reasonable level. And others have argued it should be lower.
19 Other have argued that it should be higher. To me this sounds
20 like a pretty good compromise.

21 I like the involvement of licensed foresters in
22 providing rationale when an owner feels like there really is a
23 good reason for going above 40 percent. Again, I like the
24 role that licensed foresters play in the rules that are laid
25 out here.

1 I like the flexibility in the rules. I think I'm in
2 quite close agreement with all of you that there are going to
3 be many instances where the 40 percent rule -- where there's a
4 good silvicultural rationale for going beyond the 40 percent
5 rule.

6 What I like about the rules is that they provide the
7 opportunity, if you really think that it makes sense, to show
8 the rationale for that.

9 So some people, I think, have spoken maybe too
10 Draconian about the inflexibility of these rules. I think
11 there's tremendous flexibility in here.

12 Again, they only apply if you're doing something
13 that resembles liquidation harvesting. And if you feel that
14 there's a silvicultural rationale, which there may well be for
15 cutting more than 40 percent, there is an option for showing
16 why that makes sense.

17 So let me just end by again commending everybody for
18 their very hard work and debate on this issue. I realize that
19 there's probably a lot more to come as well.

20 I just want to end by saying that I support the
21 rules the way they are, although, again, I'm very open to
22 seeing some tinkering with them as well.

23 I appreciate your time.

24 MR. STOWELL: Mr. Commissioner, could I just have a
25 moment regarding a point of procedure, point of order here.

1 I think these ad hominem remarks don't do anything
2 for this conversation.

3 Now, Mr. Barton may not like how things look up in
4 Carthage and Wells, but that happens to be where my
5 grandmother came from. That's where my family happens to live
6 for four generations. We've worked in the woods there for
7 four generations. He may not like how it looks but we do.
8 And that is a very offensive statement to say things about
9 where people live.

10 MR. BARTON: My remarks aren't directed at Carthage
11 itself at all.

12 MR. STOWELL: Well, it sure as hell was.

13 MR. BARTON: I love the Carthage area. I think --

14 MR. STOWELL: It doesn't look good, right? Well, it
15 looks damn good to me, and it looks good to others around
16 here. Keep your opinion to yourself.

17 MR. GIFFEN: Okay. I think Dwayne had his hand up
18 back some time ago. Dwayne?

19 MR. ALLEN: Commissioner McGowan, Director Giffen.

20 My name is Dwayne Allen. I work for Moosehead
21 Manufacturing Company. Moosehead is a third generation,
22 Maine, family owned and operated furniture manufacturer with
23 plants in Monson and Dover-Foxcroft.

24 As a vertically integrated secondary wood products
25 manufacturer, Moosehead is dependent on local loggers,

1 contractors, truckers, and landowners to supply our primary
2 raw material: hardwood logs and lumber.

3 My company is concerned that the enactment of the
4 rules as proposed may have a broader effect on forestland
5 investment in Maine by potentially reducing property values,
6 almost certainly causing a new round of instability and lack
7 of commitment in long-term land ownership in Maine.

8 The direct effects on my company would be an
9 increase in the cost of our primary raw material as well as
10 potential supply problems as landowners change their
11 investment philosophies.

12 At the end of the day, Moosehead could be faced with
13 one more threat to our ability to remain profitable and
14 competitive in a global marketplace that we now face. Higher
15 wood costs, along with high health insurance costs and high
16 tax burden, just to mention a few, further threaten our
17 ability to do business in Maine, potentially jeopardizing 200
18 jobs in central Maine.

19 Preliminary results of the 2004 Maine Forest Service
20 study indicate that the number of acres undergoing liquidation
21 harvesting is in the area of 2.2 percent of the annual state
22 harvest.

23 We believe that the current rules are too broad and
24 fall short of the original goal stated by the Commissioner of
25 Conservation and I quote, To develop a rule that is very

1 tightly focused on the behavior that we want to change, end of
2 quote.

3 If the incidence of liquidation harvesting is, in
4 fact, a 2.2 percent problem, then shouldn't the rule to be
5 adopted match the problem?

6 Moosehead supports and appreciates the efforts of
7 the Maine Forest Service aimed at finding appropriate remedies
8 to liquidation harvesting, but it cannot support the rules as
9 written.

10 We believe that the goal to any proposed solutions
11 should work not to -- should work to improper forest practices
12 on the ground, not just impose penalties and restrictions. It
13 is unlikely that the proposed rules will be successful in
14 changing behavior.

15 Thank you very much.

16 MR. GIFFEN: Thank you.

17 So how many folks do we have who want to speak at
18 this point?

19 Same number as before?

20 We're dwindling down.

21 Okay. This gentlemen here.

22 It looks like we have about four or five people, so
23 if folks keep to their -- if we keep your comments to about
24 five minutes, we'll get done on time.

25 MR. ROBBINS: Commissioner McGowan and Director

1 Giffen, my name is Jenness Robbins. I'm from Searsmont, and I
2 was past president and owner of Robbins Lumber Company until
3 last year when I sold it to my brother and his family.

4 I could have taken my money and invested in the
5 stock market and spent the winters in Florida, but I didn't
6 want to do that. I chose to continue growing pine, white
7 pine, because I'm a great lover of the woods. I love to hunt,
8 fish, and grow white pine.

9 I have been -- since I retired, I've been buying
10 land. Recently, I bought a 600-acre farm, and I sold 40
11 acres, which was -- 23 acres of it was field, and the farm
12 itself to recoup some of our investment. And now I am
13 harvesting the hardwood, fir, a lot of ice-damaged wood and
14 thinning out around my white pine. And that's what I like to
15 do.

16 Now, to do that, there has to be some income to pay
17 some of these expenses. That's why I sold the farm, to help
18 me recoup my investment.

19 Now, I think if this bill goes through, I don't
20 think I can do it, is that right?

21 MR. MCGOWAN: What exactly are --

22 MR. ROBBINS: I guess, under these circumstances, if
23 this bill goes through, if what I would do is, I can't sell
24 the farm, so I guess I'd have to cut white pine, leave the
25 land, the way it looks to me, to recoup some of my investment,

1 and then after, if I use it, I can sell the farm. But
2 economically, that would be a disaster, and that's not what I
3 really want to do.

4 And on the forestland I had a few years ago, it had
5 a 100-acre exemption where anybody who owned under 100 acres
6 could clear-cut. But I bought a farm this last year and it
7 was 40 acres. I cut a lot of the pine, but I left a 40 basal
8 area and sold the farm.

9 Well, a month later, after the guy bought the farm,
10 he decided he's going to fix the house up, so he wants some
11 money. So he went back and hired the same logger that was
12 cutting for me and stripped what I left.

13 You know, I don't think that's very good forest
14 practices. And that's what -- that's one of the results of
15 what happened to some of the past rule making which I don't
16 agree with.

17 Also, I've talked to a lot of loggers -- I have
18 quite a few loggers working for me, you know. And, you know,
19 the past five years business has been really depressed. It's
20 very, very hard for loggers to make any money. And that's why
21 so many of them got out of the business.

22 But they tell me, you know, sometimes they get a
23 chance to sell a piece of land and hopefully that will enable
24 them to continue being in the wood business. But if this goes
25 through, that puts a stop to that, and probably we'll lose a

1 few more loggers.

2 So I think it's -- what you're trying to do is very,
3 very bad and I'm certainly against it.

4 Thank you.

5 MR. GIFFEN: Okay, who else had their hand up?

6 This gentleman here.

7 MR. AREY: My name is Andy Arey, Arey Logging,
8 Warren, Maine. Thank you very much for the opportunity to
9 speak my mind at this hearing.

10 I'd like to share my thoughts about this regulation.
11 What I see is really a result of my own perspective from past
12 experiences. I'm a second generation landowner. My family
13 still lives on an island we settled in 1800. I come from a
14 background of fishing, farming, and logging.

15 I guess that the way that I feel about that is that
16 it's been argued that there really are only four businesses in
17 this world: fishing, farming, logging, and mining. After
18 that, everybody else trades services.

19 In the previous 18 years that I've been a logging
20 contractor, there's been a substantial amount of momentum in
21 continually redefining the laws in which we have -- you know,
22 we have to harvest timber. It seems that every few years
23 someone comes along with a better idea of how to control the
24 logging industry in the state.

25 Let's face it, you know, we know how long it takes

1 to grow what type of tree in what type of climate for what
2 type of use, but we throw millions of years at the idea of how
3 long it takes to make fossil fuels and we think nothing of it.

4 In the last 18 years of running a logging company,
5 the rules of business and tools we've had to use have changed
6 quite dramatically. Not only has the business become even
7 more capital intensive, but also a lot harder to compete in
8 the global picture.

9 Just in the last season, we on the supplier side,
10 saw the first time in three years more of a seller's market.
11 All the emphasis on fiber supply was that there wasn't enough
12 labor force in place to supply the demand.

13 I know that my own situation, if I didn't have the
14 ability to buy and sell land, that I potentially would not
15 have been there to be a fiber supplier, as was the case with
16 many other contractors that I know.

17 It seems to me that within the process of land and
18 timber management, we already have enough levels of
19 regulations in place between FPA rules, DEP rules, State
20 rules, and town ordinances. The people of the state of Maine
21 are well protected, not to mention the premise of willing
22 seller and willing buyer.

23 It would seem to me, for instance, that if land use
24 was not -- if land was not in tree growth, that is, was not
25 intended to be always available for timber protection or

1 penalized unjustly, we shouldn't undermine the ability to
2 invest and sell land in the long or short term.

3 I question the ability to enforce yet another level
4 of regulation. Over the last 18 years my main focus in
5 forestry was to provide forest management to the islands on
6 the coast, basically, to provide management to 250,000 acres
7 of timberland that was of poor access and diverse ownership.

8 During that time I hosted a field trip of people
9 from LURC, Forest Service, Maine Audubon, Maine Coast Areas
10 Trust, Acadia National Park, private foresters, Island
11 Institute, people from the Governor's office, and DEP.

12 When the trip was over, it was a consensus that more
13 had to be done to educate the landowners on the coast because
14 the conditions of the forest was in poor shape because of even
15 age, old maturity, and lack of management.

16 But when the question was raised on who was
17 responsible for educating the landowners, the Forest Service
18 said it was a coastal issue and should be left up to the
19 Island Institute and local land trusts.

20 Which brings me all the way back to perspective. At
21 44 years old and 18 years in business, I'm still considered
22 one of the young guys. And if we keep on monkeying with the
23 timber and land business, 20 years from now I'll still be one
24 of the young guys.

25 MR. GIFFEN: Forever young, huh? The secret to

1 eternal youth.

2 The lady up in back that's got her hand up.

3 MS. AYGARN: My name is Sue Aygarn. I work for
4 LandVest. I'm a licensed forester and have been practicing
5 forestry in the state of Maine for the last 25 years.

6 I worked as an industrial forester for Diamond
7 International before they broke up all their large tracts and
8 managed lands for the purpose of feeding our mills. After the
9 breakup of the Diamond lands in the '80s, I moved on and
10 became a private consultant managing some of those same lands
11 I worked for on Diamond.

12 This time my clients were mills, logger/landowners,
13 and private; and I worked those lands to feed their mills and
14 pay off their investments.

15 Today I work for a company called LandVest managing
16 and selling timberland to a group of timberland owners and
17 investors. As timberlands become available for sale today,
18 our buyers cover a much wider spectrum than the original
19 logger sawmill buyers.

20 New timberland investment management organizations,
21 other institutional owners, publicly traded forest industry
22 companies, as well as high net worth individuals and families
23 are all seeking a steady market in which to make long-term
24 investments. These well-educated buyers have patient money
25 and are landowners that are seeking to be the next stewards of

1 Maine's forests.

2 Before investing in these Maine timberlands, these
3 buyers are making a thorough analysis of Maine's business
4 climate: its forest products market's long-term forest
5 industry health, local labor, long-term wood supply. They
6 want to know it all. They're making a big investment, and
7 they want to know what's going on.

8 Frequent unnecessary regulations such as the Maine
9 Forest Rule Chapter 23 sends a wrong message to these buyers,
10 losing them to an investment in markets elsewhere and sending
11 timberland values plummeting. Just last month we lost an
12 investor who's moving his investment from Maine to the forest
13 of Montana.

14 If you want to discourage liquidation harvesting,
15 let's not do it by spooking the long-term investor capital.
16 Instead, let's make the market work.

17 Investors are more likely to buy land at a higher
18 premium when they are well managed and have sufficient mature
19 timber on them to pay the taxes. As many of the so-called
20 liquidators have begun to see as they sell out, some level of
21 forestry pays, even for them.

22 The 2004 Governor Baldacci's Forest Industry
23 Initiative was proposed to focus on promoting forest
24 stewardship. Promotion of certification has provided leverage
25 for mills and landowners alike. A landowner can't who meets

1 SFI certification may be disabled by procurement practices at
2 some of the mills. That's a good thing.

3 Landowners with certification may eventually receive
4 premiums for their certified wood and time. Practices such as
5 these encourage stewardship while discouraging liquidation
6 within the market without the force of the rules.

7 The 2004 Governor Baldacci's Forest Initiative also
8 proposed to substantially eliminate forest harvesting
9 liquidation. Under his directive, Maine Forest Service was
10 charged to continue monitoring and reporting on liquidation
11 practices.

12 Under the 2000 Maine Forest Service study targeting
13 potential liquidators, the results found only 2.2 percent of
14 the study area fit the definition of liquidation harvesting as
15 it's been said several times tonight. This also upheld
16 previous studies conducted in 1995 and '96 where, again, 2.5
17 percent of the annual harvested fell under liquidation
18 harvesting definition.

19 How can the State of Maine, in its current budget
20 crisis, justify further rule making on a problem that only
21 affects 2 percent of its harvest? What is the benefit to the
22 State to gain -- and I've made an estimate here of four cords
23 to the acre-per-year of its lowest value wood? Now, maybe in
24 some stands it's pine and it's the highest value, but
25 especially where I come from in the other part of the state, a

1 lot of the wood that's being left is beech, red maple. We're
2 not gaining anything, and we're doing pretty poor forestry by
3 leaving it.

4 How much will it cost the State to implement and
5 enforce such measures? I am sure that its negative effects on
6 timberland values, consumer confidence, cost of doing
7 business, will far exceed its benefit.

8 I fail to grasp the economic benefit of putting
9 another nail in the coffin of an already faltering industry
10 over a few bad players.

11 Furthermore, I wish to point out, under Maine's
12 Forest Service's same study, they dropped 4.5 percent of the
13 targeted parcels from the study due to site conversion.

14 Why is urban sprawl more acceptable to Maine Forest
15 Service than liquidation harvesting so that they should
16 regulate those who are able to keep land in production?
17 Where's the directive from the State that supports land
18 conversion over liquidation? Isn't land permanently removed
19 from our productive land base by urban sprawl more of a
20 problem for the state of Maine with a vested interest in the
21 forest economy.

22 Let's demonstrate Maine's commitment to long-term
23 production of our forests by better land planning than
24 supporting these rules.

25 I'm going to try to briefen this up a little bit.

1 I think we're doing -- FPA has done a good job for
2 us. I think, in solutions, we need to provide a stable
3 regulatory climate for our people, eliminate the sledgehammer
4 approach to regulation. We need to allow the market time to
5 react to small changes. Let's let the market show resale of
6 poorly timbered tracts is less than resale of ones left with
7 good growing stock.

8 Let's enforce what we have. Forest Practices Act is
9 working. Leave it alone. And let's enforce our existing
10 rules.

11 Let's spend our time and money investing in our
12 forest future. Lead the charge, invest time and money into
13 advancing the growth of our young forest, refrain from
14 breaking our budget and our economy over four cords of the
15 wood to the acre of poor growing stock.

16 If we want to lead, we want to get our priorities
17 straight. Let's send a message to the world that Maine is a
18 good place to do business and a great place to grow trees.

19 Thank you. Appreciate it.

20 MR. GIFFEN: Yes. This gentleman would like to
21 speak.

22 MR. HEESCHEN: My name is Conrad Heeschen. I have
23 300 acres in Wilton. Most all of it is forested. I have cut
24 pulp and firewood and saw logs on that property. I've also
25 had a professional forester in to cut oak and saw logs and

1 veneer.

2 I do think that there is a problem with liquidation
3 harvesting in this region. I guess my definition of
4 liquidation harvesting doesn't necessarily limit to the
5 selling or intent to sell, but I think that the subdivision
6 and the parcelization is an important part of it. And that's
7 why I think that -- I'm convinced that this rule, by itself,
8 is going to be effective in dealing with liquidation
9 harvesting.

10 I think that part of the problem is that with the
11 parcelization and the splitting up into more, you know,
12 smaller and smaller lots, that we will eventually really limit
13 our ability to have effective wood lots in the state.

14 I know it's true some people can accumulate lots
15 from pretty heavily cut stuff, but I think that overall
16 there's a lot of splitting up and permanently removing it from
17 the forest base that are being sold as camp lots or house
18 lots.

19 I did want to commend the Forest Service and the
20 Legislature for finally deciding to tackle this question. I
21 think that historically they've have had pretty much a sense
22 of denial that there was a problem.

23 I think, you know, if you go back eight years or so
24 ago, the Governor's Council on Forestry was -- in the report
25 was boasting about Maine still had a pretty high harvest

1 standard. But they weren't, and never did, actually
2 acknowledge the boom-and-bust cycle of Maine forestry, and
3 that it was a long time after the 1909 boom that was the
4 previous big one that the state recovered. And my concern is
5 that if we don't deal with the parcelization, we actually may
6 not recover the next time.

7 I sort of saw this region as starting to be the next
8 target for liquidators. And after how many times it's been --
9 or writing about or had been -- they're out of business now --
10 about parcelization and liquidation 20 years ago.

11 A few years ago, seven years ago, in fact, I
12 realized that western Maine was the next target for the
13 heavy-handed cutting and parcelization when most of the trucks
14 by my house, which is one of the three roads leading out of
15 Weld, were not from the region. In fact, most of them were
16 from Wytovitlock. That was actually a harvest that was going
17 on a former Diamond parcel, 4,000 acres in Weld, which
18 subsequently had proposed a 40-acre subdivision on it.

19 I've been active with the Timberland Conservation
20 Alliance. Now, I'm not speaking for the Timberland
21 Conservation Alliance; I'm speaking for myself.

22 I think one of the reasons I got involved was
23 because I thought that if we didn't do some substantial
24 conservation investment that would not only protect
25 recreational access but the forest base, that until the

1 markets got things right again, that all of the Weld region
2 would be what I consider strip and split.

3 Most of the merchantable wood strips, the lots split
4 up into smaller and smaller parcels and not always the
5 loggers, the buyers who did that work would also split the
6 scene. Not from the area.

7 Well, the very fact that a lot of conservation, you
8 know, land preservation work is being done says something
9 about there's a problem out there.

10 If there wasn't heavy-handed handed cutting followed
11 by conversion of land to house lots and camp lots; if, in
12 fact, the land was continuing to be managed as productive
13 woodland and not being split up smaller -- the smaller the
14 parcel is, the more likely that no one in the area is going to
15 be able to use it for the traditional recreation that they
16 use: hunting and fishing and so forth. It makes it more
17 difficult for the lot to be managed for forestry.

18 If this process wasn't happening, there would be no
19 real need for the kind of land conservation efforts going on
20 right now. Wouldn't be the need for the time invested in it
21 or the money that both State and federal government are
22 putting into it plus a lot of private individuals contributing
23 to this.

24 So I think that that is, you know, indication that
25 there is a concern out there.

1 In response to a couple comments about people want
2 certainty or they want to know what the rules are and not have
3 things changed, I do agree that it seems like the Legislature
4 too often thinks they're going to tweak the Tree Growth Law
5 and I'm in it, so, you know, I'm aware of this problem.

6 I was recently reading a book William White called
7 City. It was published in 1988. He was mostly dealing with
8 the kind of planning -- and he was a consultant to planners in
9 the City of New York and other cities -- dealing with
10 developers and incentives versus mandates.

11 The conclusion finally was that you shouldn't have
12 to give lots of incentives to do the right thing. You ought
13 to have to do the right thing. He also said that developers
14 and landowners can work where they know the rules are clear.

15 With the situation with incentives, too often there
16 were so many uncertainties so everybody was pushing the
17 envelope and no particular landowner or developer really had
18 any certainty as to what they could or couldn't do with their
19 land. So I think that when you consider this, I think that
20 you should aim for some kind of certainty in this.

21 I hadn't known of the subdivision bill before, and
22 that's why I was addressing this. Without that aspect of it,
23 I'm not sure that this -- just dealing with it on a
24 silvicultural basis -- will actually do the trick.

25 I mean, I agree with a number of people that there

1 are sometimes reasons to harvest something kind of hard; that
2 perceptions are often just perceptions; that if you look at
3 something carefully, that there's some -- you know, there's
4 still a forest or a potential forest there.

5 But I think that you could so often look around and
6 see just the core value species and the core value specimens
7 that are left to meet a percentage requirement. So that's why
8 I'm not certain about what percentage it should be.

9 I think you're making a good start. I think,
10 though, it's all a package with the other part of it, and I'm
11 not sure that one is going to do it.

12 MR. GIFFEN: Okay. We've got about ten minutes
13 before 9:00.

14 How many folks are left who want to speak?

15 One lady.

16 Okay. Why don't you come up and --

17 MR. MCGOWAN: Just so you know, I know a lot of
18 people get excited when they hear about towns, but I didn't
19 know there were that many trucks in Wytovitlock. My
20 grandfather is from Wytovitlock.

21 MR. HEESCHEN: There were two major forest truckers
22 who are running by our place.

23 PARTICIPANT: Maybe they got a boom going up there,
24 I don't know about.

25 MR. HEESCHEN: And I should -- I'm not sure, but I

1 think they may have peaked in the year. Last winter during
2 daylight hours there was 120 trucks going by our house and
3 that was only from 7 o'clock to 6 o'clock. And they ran from
4 3:00 in the morning till 11:00 at night. So -- but there's
5 been a lot fewer this year.

6 MS. PRODAN: My name is Pam Prodan, and I live with
7 Conrad in Weld and I think he did a good presentation on how
8 we perceived the problem.

9 And I want to say that I support the proposed rule.
10 I do think that I agree also with what Cathy Johnson said and
11 what some of the other commentators said about there being a
12 lot of potential loopholes.

13 I guess I'm really surprised at the emotion
14 expressed tonight over the rule because I see that there are a
15 lot of loopholes in it. And I don't think that it's going to
16 affect more than just a narrow slice of what's happening in
17 the Maine woods.

18 I did speak to my forester who has looked at the
19 draft rule, and he thinks that there are quite a few loopholes
20 in there. I think you just see as you go along which ones are
21 the problem and see if you can adjust.

22 What I do like about the rule is that -- I mean, the
23 big thing for me is the rule takes a scientific approach at
24 looking at the forest as a living ecosystem, and it recognizes
25 that we can only take so much of treating the land as a

1 commodity. That's what I like about the rule. It's a little
2 step, but it's a first step. And I think it recognizes that
3 treating the forestland like a commodity in the long run is
4 very damaging.

5 And to me, 2.5 percent does sound like a lot when
6 you start adding up over 25 years. I mean, that's more than
7 half the land. And 25 years is not that long a time, in my
8 lifetime anyway.

9 The 40 percent shoreland zoning standards I think is
10 a good beginning to start with that. I know a number of towns
11 have thought about using that as a standard if they were ever
12 to try to do percentages in their town.

13 I just think it's a positive to try to bring more
14 professional involvement into the practices, primarily because
15 I hear a lot of people here tonight saying that we need to do
16 more education.

17 Well, I fully agree with that, but when education
18 doesn't work, I think one thing that really does work is,
19 like, a stiff fine. But education, obviously, hasn't been
20 working enough to date.

21 So I think maybe there are some marginal operators
22 out there who are going to find the five-year holding period
23 is going to inject a perception of risk and it's going to make
24 it more difficult for them; but overall, I think that with the
25 rule, it will slow down the rate at which land is cut and

1 resold. I don't think it will eliminate it, but I think it
2 will at least slow it down. That's why I'm supporting it.

3 I'm going to leave you with a copy of a little
4 analysis that I wrote for the Western Maine Audubon
5 newsletter.

6 MR. GIFFEN: Thank you.

7 Is there anybody else who wishes to speak?

8 MR. ROBBINS: I have a question.

9 MR. GIFFEN: Yes.

10 MR. ROBBINS: I'd like to know why we're spending so
11 much time worried about 2 percent.

12 And also, I'd like to ask generally, in the survey
13 to find out if 2 percent of the land is being liquidated, how
14 much of the land is cut, never when a tree just grow, falls
15 down, die. What's the percentage of that?

16 When you ride down the road, any highway you want to
17 pick in the state of Maine, once in a while you'll see a lot
18 that's been liquidated. But how many times do you see land
19 that's never been touched? I mean, it might be 28 and it
20 might be 58. That's a big problem.

21 MR. GIFFEN: Yeah. Well, we also are concerned with
22 trying to improve forest management more generally, and please
23 don't get the impression that liquidation harvesting is our
24 only concern. We've been directed by the Governor and the
25 Legislature to deal with this problem.

1 The normal bread and butter of the Maine Forest
2 Service is working to help landowners improve their
3 management. We have a stewardship program. We help people
4 write plans, we provide training to loggers. So there's a lot
5 more that the Maine Forest Service does than deal with
6 liquidation harvesting.

7 We have been directed by the Legislature and by the
8 Governor to deal with this problem, and we're trying to deal
9 with it in a responsible way.

10 It does not at all mean that we're not concerned
11 with the other management issues that confront Maine's
12 forests. I agree with you that we need to do more to try and
13 improve the management on many other acres of land in the
14 state of Maine.

15 Is there anybody else who wants to speak at this
16 point?

17 Andy?

18 MR. AREY: Well, I mean, I hate to be the continual
19 reminder of the broken record on tree growth, but it seems to
20 me that -- at least on the coast where you have a lot of high
21 priced real estate -- there's a very large amount of
22 landowners that have taken advantage of that Tree Growth Tax
23 law.

24 And, you know, you go to town officers, you go to
25 officers, and they say that it's a State mandate. You go to

1 the State and they say it's a local issue but it's locally
2 enforced.

3 And there's land out there valued at \$10,000 an acre
4 that's getting taxed as a tree growth, you know, commercial
5 tree growth rate, that has no intentions of ever seeing a
6 chain saw.

7 It just, to me, you know, if we could have plugged
8 in the process of tree growth and the management that went
9 with it inadvertently, I think we would have plugged in a
10 management system that would have made management of woodland
11 within the population a little more acceptable.

12 I mean, inadvertently, it would have made it like it
13 wasn't taboo, especially when you're getting around a piece of
14 water or some high priced real estate.

15 So -- I mean, I hate to be the broken record, but it
16 does not seem to be getting any better. And the conditions of
17 the stands of wood on the coast of Maine are worse than
18 they've ever been.

19 MR. GIFFEN: Yeah. And we also hear that tree
20 growth is -- as we've heard tonight -- that tree growth is
21 something that people don't want to tamper with. So it's
22 something that was suggested as a mechanism for dealing with
23 liquidation harvesting, and we opted not to do it because of a
24 concern with tree growth being something that people wanted to
25 have stable for a longer term period.

1 And I see Doug has got a comment he wants to make.

2 MR. DENICO: I think people have grasped the 2.2
3 confusion.

4 2.2 percent pertains to 2.2 percent of the annual
5 harvest. It's not 2.2 percent of the land base in Maine. So
6 land base that has been liquidated is a 1/32 of 2 percent, and
7 I'm not bright enough to figure that out. It's .00-something.

8 MR. GIFFEN: Yeah. It is 2 percent of the amount
9 harvested in the state, which is between 5- and 600,000
10 thousand acres a year; however, the entire five-year time
11 period has not run out on that, although most of the activity
12 tends to take place early in that process.

13 I do want to compliment you on your understanding of
14 the rule and sticking to the agenda this evening. I was
15 telling Pat part way through the evening here that this has
16 really been pretty extraordinary, I think, that people have
17 digested the rule, understand what's involved, and really, by
18 and large, commented on things that are specific and germane
19 to the rule.

20 I've been through a lot of regulatory proceedings in
21 my life, and I would say that a higher percentage of the
22 comments tonight were directed specifically at the subject
23 than probably in any other hearing that I can remember.

24 So thank you all for that. And also thank you for
25 the dialogue and being respectful of one another's opinions,

1 insults to one's neighborhood aside.

2 Anyway, thank you all. And we'll be holding two
3 additional hearings. You can submit comments in writing.

4 (Whereupon, the hearing was concluded at 8:58 p.m.)

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CERTIFICATE

I, Lisa Fitzgerald, a Notary Public in and for the State of Maine, hereby certify that on March 23, 2004, a public hearing was held by the Maine Department of Conservation, Maine Forest Service in Farmington, Maine regarding MFS Rule -- Chapter 23, Timber Harvesting Standards to Substantially Eliminate Liquidation Harvesting.

This hearing was stenographically reported by me and later reduced to typewritten form with the aid of computer-aided transcription; and the foregoing is a full and true record of the testimony given by the witnesses.

I further certify that I am a disinterested person in the event or outcome of the above-named hearing.

IN WITNESS WHEREOF, I subscribe my hand and affix my seal this April 26, 2004.

LISA FITZGERALD, NOTARY PUBLIC
Court Reporter

My commission expires: May 10, 2004